

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

AMERICAN CENTER FOR EXCELLENCE)

IN SURGICAL ASSISTING INC.,)

Plaintiff,)

- vs-) No. 1:15-CV-07290

COMMUNITY COLLEGE DISTRICT 502,)

COLLEGE OF DUPAGE, DR. THOMAS)

CAMERON, DR. KAREN M. SOLT,)

and DR. KATHY CABAI,)

Defendants.)

The deposition of DANIEL BUMP called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Gina Callahan, a notary public within and for the County of Iroquois and State of Illinois, at 180 North Stetson Avenue, Suite 3700, Chicago, Illinois, on the 4th day of April, 2017, at the hour of 9:00 a.m.



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21
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24



I N D E X

W I T N E S S

E X A M I N A T I O N

D A N I E L B U M P

By Mr. Roche

4

E X H I B I T S

N U M B E R

M A R K E D F O R I D

B u m p D e p o s i t i o n

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Exhi bi t No. 2

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Exhi bi t No. 3

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Exhi bi t No. 4

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(EXHI BI TS RETAI NED BY COUNSEL.)



1 MR. ROCHE: Let the record reflect that
2 this is the discovery deposition of Dan Bump in
3 his individual capacity taken pursuant to due
4 notice under the applicable Federal Rules of
5 Civil Procedure.

6 Mr. Bump, could you please state your
7 name and spell it for the record?

8 (Whereupon, the witness was duly
9 sworn.)

10 DANIEL BUMP,
11 having been first duly sworn, was examined and
12 testified as follows:

13 EXAMINATION

14 BY MR. ROCHE:

15 Q. Have you ever been deposed before,
16 Mr. Bump?

17 A. A long time ago. Once.

18 Q. Okay. You have been deposed before?

19 A. It was in a malpractice suit for a
20 doctor I was working for. I was deposed as a
21 witness.

22 Q. Do you remember approximately what year
23 that was?

24 A. I would -- it would be a guess. It was



1 somewhere in the 90s.

2 Q. Okay. Well, just to refresh your
3 recollection about depositions, the court
4 reporter, if you could just, you know, answer
5 the questions verbally and nods and shakes of
6 the head and that type of stuff, if you could
7 please avoid that, I'd appreciate it so the
8 court reporter could take down an accurate
9 recitation of your testimony today. The other
10 thing is if you don't understand my question,
11 please tell me.

12 A. Okay.

13 Q. I will be asking you, obviously, a
14 series of questions. And if some of the
15 questions are incomprehensible or you simply
16 don't understand, please just let me know;
17 otherwise, I will assume you do understand the
18 question.

19 A. Okay.

20 Q. Is that okay?

21 A. Uh-huh.

22 Q. All right. What is your home address,
23 Mr. Bump?

24 A. 8592 East Oxford Drive, Denver,



1 Col orado.

2 Q. And your date of birth?

3 A. 6/4/55.

4 Q. Are you married?

5 A. Yes.

6 Q. Do you have children?

7 A. Yes.

8 Q. How many?

9 A. Two of my own and three stepkids.

10 Q. What is your highest level of formal
11 education, Mr. Bump?

12 A. High school and military training.

13 Q. Did you ever attend a secondary
14 institution?

15 A. No.

16 Q. Did you go into the military after high
17 school?

18 A. Yes.

19 Q. And which branch of the military did
20 you enter?

21 A. Navy.

22 Q. Navy.

23 What year was that approximately,
24 Mr. Bump?



1 A. 73.

2 Q. In the medical field, can you just
3 describe for me your professional -- have you
4 obtained any professional certifications in the
5 medical field, Mr. Bump?

6 A. I'm certified as a tech; and I have two
7 certification as surgical assistant, as a
8 surgical tech. I don't remember if I said that
9 or not.

10 Q. Is that what is called a CST?

11 A. Yes.

12 Q. And you mentioned you had two
13 certifications in the surgical assistant --

14 A. Correct.

15 Q. -- field.

16 And what are those two?

17 A. CSFA and SA-C.

18 Q. What does CSFA stand for?

19 A. Certified surgical first assistant.

20 Q. And how did you obtain that
21 certification?

22 A. It's an exam that's offered by the
23 NBSTSA.

24 Q. And what is the NBSTSA?



1 A. I was hoping you weren't going to ask
2 that one. National Board of Surgical Techs and
3 Surgical Assistants.

4 Q. When did you obtain the certification
5 as a CSFA?

6 A. That was back in 1990, I think.

7 Q. Did you have to take any -- strike
8 that.

9 To become a CSFA, did you have to do
10 anything else other than take the exam that was
11 offered by the NBSTSA?

12 A. You had to demonstrate some experience
13 as a surgical assistant. I did have some
14 training as a surgical assistant. I was offered
15 by a company that I joined who offered surgical
16 assisting services in the Denver metro area. So
17 they had a training program that's kind of like
18 an apprenticeship-type program.

19 Q. How about an SA-C, what does that stand
20 for?

21 A. Surgical assistant certified.

22 Q. How do you become an SA-C?

23 A. You have to take an exam.

24 Q. Who is that exam administered by?



1 A. The American Board of Surgical
2 Assistants. ABSA.

3 Q. And did you have to engage in any other
4 activities aside from simply taking the exam to
5 become an SA-C?

6 A. Not at that time.

7 Q. All you had to do was take an exam?

8 A. Well, I had to prove that I had
9 experience working in the surgical assistant
10 field, and they were also accepting the CSFA as
11 part of the credentials that they accepted.

12 Q. Okay. I may have asked this earlier.

13 When did you become an SA-C?
14 Approximately what year?

15 A. That was maybe five years ago.
16 Something like that. It hasn't been that long.

17 Q. Do you have any other professional
18 certifications in the medical field?

19 A. No.

20 Q. Have you ever been convicted of any
21 crime other than a misdemeanor or a traffic
22 offense?

23 A. No.

24 Q. Are you presently taking any



1 medications that could affect your ability to
2 testify truthfully and accurately today?

3 A. No.

4 Q. You mentioned a few minutes ago that
5 you had been deposed as a witness in a
6 malpractice action?

7 A. Uh-huh.

8 Q. Have you ever -- aside from that, have
9 you ever been a party to a lawsuit?

10 A. No.

11 Q. Aside from this present action ACE
12 brought against the College of DuPage and the
13 other defendants, are you aware if ACE has ever
14 been a party to a lawsuit?

15 A. No.

16 Q. Let's discuss the steps you took to
17 prepare for today's deposition, Mr. Bump. Did
18 you meet with counsel?

19 A. Yes.

20 Q. Okay. I don't want to know any of
21 those discussions or communications. But aside
22 from your counsel or any instances where your
23 counsel was not present, did you meet with
24 anyone else who is affiliated with ACE?



1 A. No.

2 Q. You did not discuss today's
3 deposition -- well, strike that.

4 Did you discuss today's deposition with
5 Keith Bump?

6 A. Not in any -- not to any depth at all.

7 Q. You did discuss your testimony with
8 Keith Bump?

9 A. I might have had a five-minute
10 conversation on the phone.

11 Q. Do you recall what was discussed?

12 A. But not -- no details. He's just
13 wondering if there is any way he could help me
14 out or we needed to have a meeting, and we
15 didn't, though.

16 Q. Did you discuss your testimony today
17 with Tabitha Bump?

18 A. No.

19 Q. Who is Tabitha Bump?

20 A. She is my daughter.

21 Q. Okay. How about Maggie Parrish, did
22 you discuss today's deposition testimony with
23 Maggie?

24 A. No.



1 Q. Sorry. The court reporter can't get
2 it.

3 Let's look at our first exhibit.

4 (Whereupon, Bump Deposition
5 Exhibit No. 1 was marked for
6 identification.)

7 BY MR. ROCHE:

8 Q. Showing you what has been marked as
9 your deposition Exhibit No. 1, it is a Complaint
10 that was filed in this action, Mr. Bump.

11 Did you review the Complaint in
12 connection with preparing for today's
13 deposition?

14 A. It's been a while since I looked at
15 this.

16 Q. Did you review it in preparation for
17 today's deposition?

18 A. The thing that I reviewed mostly in
19 preparation for today's deposition was a
20 document that was sent to me by my lawyer that
21 outlined the things we'd be talking about.

22 Q. Do you know if that -- strike that.

23 So I understand it correctly, you did
24 not review this Complaint in connection with



1 today's deposition?

2 A. Not this particular document.

3 Q. Okay.

4 A. That I'm aware of. Let me check.

5 Q. Sure. Of course.

6 A. No.

7 Q. Did you review the Complaint, Mr. Bump,
8 before it was filed in August of 2015?

9 A. I can't testify that this is the
10 particular document I looked at. I was made
11 aware of what was filed.

12 Q. Did you review -- do you recall? I'm
13 just simply asking.

14 A. Uh-huh.

15 Q. If you recall reviewing a document
16 styled Complaint that was filed in this action?

17 A. Yes.

18 Q. Okay. Do you recall if Keith Bump
19 reviewed the Complaint in this case before it
20 was filed?

21 A. I'm nearly certain he did. He lives in
22 Virginia, I live in Denver. So I wasn't like
23 over the shoulder, looking at his review of the
24 document.



1 Q. I understand.

2 A. But I'm fairly sure he saw everything I
3 saw.

4 Q. The document that you reviewed before
5 the Complaint was filed in this action, do you
6 recall if you approved what was asserted in that
7 document?

8 A. Sure. Yes.

9 Q. Do you recall reviewing -- and please
10 take your time to review the exhibits. There is
11 several exhibits to this. But my question,
12 simply, Mr. Bump, is: Do you recall reviewing
13 the documents appended as the exhibits to this
14 Complaint before it was filed in this action?

15 A. Are these mostly just email exhibits?

16 MR. DAVIS: You're supposed to answer
17 the question, not ask it. So could you repeat
18 the question?

19 (Whereupon, the record was read
20 as requested.)

21 THE WITNESS: The answer is there wasn't
22 anything in there I didn't -- that I would
23 refute having seen; but I don't recall what time
24 frame because I've seen all of these exhibits



1 over periods of time.

2 BY MR. ROCHE:

3 Q. Okay. Let's talk about email
4 communications, Mr. Bump. And this is -- the
5 context of this line of questioning again is
6 what did you, you know, did you review emails in
7 connection with preparing for today's
8 deposition. So my question simply is: Did you
9 review any email communications in preparing for
10 today's deposition?

11 A. I'm not sure I understand the question.
12 In other words, did I -- is there a time frame
13 relatively close to here where I reviewed all
14 the email, all the e-mails related to this? And
15 the answer would be I didn't have like a set
16 time that I sat down and reviewed all the
17 e-mails for this Complaint, but I'm familiar
18 with them over time.

19 Q. Are you aware, Mr. Bump, that in
20 connection with this litigation, the defendants,
21 which I'll refer to as the College of DuPage,
22 have produced email communications between the
23 college and representatives of ACE?

24 A. I'm familiar with that, yes.



1 Q. Do you recall if you've reviewed those
2 email communications?

3 A. Not in the recent time. Maybe.

4 Q. And that's --

5 A. A month or so.

6 Q. Okay.

7 A. I looked at them.

8 Q. Are you aware, Mr. Bump, that ACE has
9 produced email communications between ACE
10 representatives and College of DuPage
11 representatives?

12 A. Yes.

13 Q. Have you reviewed those communications
14 since this lawsuit has been instituted?

15 A. Yes.

16 Q. You're familiar with a company by the
17 name of your extra -- Your Extra Hands Surgical
18 Services?

19 A. Yes.

20 Q. Are you aware that Your Extra Hands
21 Surgical Services have produced email
22 communications in connection with this
23 litigation?

24 A. I understand that they were subpoenaed



1 for. I didn't see any of their e-mails.

2 Q. You have not reviewed them?

3 A. No.

4 Q. Okay. Have you reviewed, Mr. Bump,
5 what ACE is claiming are its trade secrets in
6 this litigation in connection with preparing for
7 today's deposition?

8 A. Yes.

9 Q. All right. Have you reviewed
10 documents, Mr. Bump, relating to ACE's damages
11 claim in connection with today's deposition?

12 A. Have I reviewed documents related to
13 it? The specific damages?

14 Q. Yes.

15 A. Only in documents like this that were
16 produced to me.

17 Q. Have you reviewed any financial
18 documents?

19 A. I produced the financial documents.

20 Q. Okay. The ACE financial documents?

21 A. Yes.

22 Q. All right. Have you brought any
23 documents with you this morning for your
24 deposition, Mr. Bump?



1 A. Do you have any?

2 MR. DAVIS: No.

3 THE WITNESS: No.

4 BY MR. ROCHE:

5 Q. Have you reviewed -- to the best of
6 your knowledge, have you reviewed any documents
7 that relate to the claims in this case that have
8 not been produced?

9 A. No.

10 Q. What other efforts, Mr. Bump, have you
11 engaged in, in connection with preparing for
12 your deposition today?

13 A. None other than that.

14 Q. Okay. As we've discussed a few minutes
15 ago, at least with respect to the email
16 communications, are you aware, Mr. Bump, that
17 ACE has produced approximately a thousand pages
18 in this case?

19 A. I didn't count the pages, but that
20 wouldn't surprise me.

21 Q. Who at ACE, if you know, was
22 responsible for assembling those documents and
23 ultimately producing them?

24 A. A big part of that work was done by



1 Maggie Parrish, in cooperation with Keith Bump.

2 Q. Did you play any role, Mr. Bump, in
3 connection with retrieving the documents that
4 have been produced in this case?

5 A. Only to the extent that documents came
6 from my own email.

7 Q. And how did you go about that process?

8 A. I have a file that contained all the
9 e-mails related to COD, and I did a search on
10 top of that.

11 Q. A search in your general email?

12 A. Uh-huh.

13 Q. Mailbox?

14 A. Yes.

15 Q. Okay.

16 (Whereupon, Bump Deposition
17 Exhibit No. 2 was marked for
18 identification.)

19 BY MR. ROCHE:

20 Q. Mr. Bump, are you aware that the
21 parties in this litigation have agreed on the
22 retrieval process or protocol for e-mails in
23 this matter?

24 A. Yes.



1 Q. Okay. The document I marked as Exhibit
2 No. 2 memorializes the agreed upon search
3 process for the e-mails. My question simply is:
4 Did you conduct your email search according to
5 what's outlined in that exhibit? Take your time
6 to read it.

7 A. If it is the same as the document that
8 I received, then I did. I think, though, that
9 there was also a request to search personal
10 e-mails, and I do have a personal email that I
11 never use. I just got it in relationship to my
12 phone to have an account with the phone company,
13 basically, but I never use it for any reason.

14 Q. So there are no email communications
15 between ACE or the College of DuPage on your
16 personal email account?

17 A. No, no.

18 Q. Did you, Mr. Bump, in 2014 -- excuse
19 me, 2013 and 2014, did you have access to ACE
20 employees' email accounts?

21 A. I never accessed it, but I would have
22 had access to it.

23 Q. Okay. Let's go over another exhibit.
24



(Whereupon, Bump Deposition
Exhibit No. 3 was marked for
identification.)

BY MR. ROCHE:

Q. I will show you what's been marked as
Exhibit No. 3.

Have you ever seen this document
before, Mr. Bump?

A. I don't recall this specific document.

MR. ROCHE: Can we go off the record for
a second?

(Whereupon, a discussion was had
off the record.)

(Whereupon, a short break was
taken.)

MR. ROCHE: Do you mind reading back
the last Q and A?

(Whereupon, the record was read
as requested.)

BY MR. ROCHE:

Q. If you could turn to the last page of
Exhibit 3, Mr. Bump.

A. Is that the one you just gave us?

Q. Yes.



1 To the best of your knowledge, is that
2 Keith Bump's signature?

3 A. It appears to be.

4 Q. Keith is your brother, right, Mr. Bump?

5 A. Yes.

6 Q. Okay. Older or younger?

7 A. Younger.

8 Q. And it indicates his position is VP of
9 sales and marketing. Do you see that?

10 A. Yes.

11 Q. Was that Mr. Bump -- Keith Bump's
12 position with ACE in 2013?

13 A. Yes.

14 Q. How about 2014, was --

15 A. Since the time he was employed.

16 Q. And when did Keith first become
17 employed with ACE?

18 A. I don't remember the date.

19 Q. Do you remember the year?

20 A. I know he's been with us probably about
21 four or five years.

22 Q. Okay. Do you have any reason to
23 believe, Mr. Bump, that Keith, when he signed
24 this verification, was not authorized by ACE to



1 sign it?

2 A. He was authorized.

3 Q. Did you authorize him?

4 A. Yes.

5 Q. Okay. I believe you testified you do
6 not recall the specific document, but if you
7 could go through it, Mr. Bump, right now, and
8 take a look at both the questions and the
9 answers. And my question simply will be: Do
10 you agree with the answers that ACE provided?

11 A. Okay. I agree.

12 Q. Okay. I direct your attention to
13 Interrogatory No. 2.

14 A. Oh, on this? Okay.

15 Q. If you look at the answer in bold, the
16 last line states, "representatives from
17 Blackboard will provide in the course of further
18 discovery." Do you see that?

19 A. Yes.

20 Q. Do you know if those names have been
21 provided, Mr. Bump?

22 A. People at Blackboard?

23 Q. Yes.

24 A. No, I don't know if that's been



1 provided or not. All there were with Blackboard
2 was just phone conversations in preparation for
3 moving forward.

4 Q. Okay. Do you recall who you had the
5 phone -- well --

6 A. I didn't have any conversations. That
7 is Keith and Kyle. Keith and Kyle.

8 Q. Did you have any communications with
9 representatives of Blackboard?

10 A. No. Our company did, I didn't.

11 Q. Do you know if there were any email
12 communications between representatives of ACE
13 and Blackboard?

14 A. Not that I've seen. My understanding
15 is the only phone communications were made up to
16 that point.

17 Q. Okay. And you did not participate --

18 A. No.

19 Q. -- in any of those phone conversations.
20 Do you know, Mr. Bump, whether ACE paid
21 any sums of money to Blackboard in connection
22 with --

23 A. We did not.

24 Q. You did not. Okay.



1 I direct your attention now to
2 Interrogatory No. 4. Do you see that, Mr. Bump?

3 A. Yes.

4 Q. It asks for ACE to identify all the
5 documents or other materials ACE provided to COD
6 that it believes constituted trade secrets. Do
7 you see that?

8 A. Uh-huh.

9 Q. And the first response is self-study
10 and all included documents. I just want to mark
11 some exhibits to make sure we're all on the same
12 page.

13 (Whereupon, Bump Deposition
14 Exhibit No. 4 was marked for
15 identification.)

16 MR. DAVIS: This is Exhibit 4?

17 MR. ROCHE: Exhibit 4.

18 BY MR. ROCHE:

19 Q. My question, Mr. Bump, simply, is: Is
20 this a self study-what has been marked as
21 Exhibit 4, is this a self-study that was
22 identified in ACE's answer to Interrogatory
23 No. 4?

24 A. Yes.



1 Q. Can you identify by Bates label ACE's
2 self-study for the record, Mr. Bump?

3 A. By? What do you mean Bates label?

4 Q. If you turn to the third page on that,
5 you see at the bottom right there?

6 A. Uh-huh.

7 Q. ACE 1107. Do you see that?

8 A. Those look -- no, I'm not familiar with
9 the Bates label. This?

10 MR. DAVIS: Well, that was placed there
11 by you, right? Or no, it was placed there by
12 us. Okay. Right. Okay.

13 BY MR. ROCHE:

14 Q. Can you identify --

15 A. I didn't.

16 Q. Mr. Bump, that's called a Bates label.

17 A. Uh-huh.

18 Q. And all I'm trying to ask you is can
19 you identify the self-study, ACE's self-study by
20 Bates label beginning with the first Bates label
21 and then ending with the last Bates label?

22 A. And this is a marking that we put on
23 there?

24 Q. Correct.



1 A. Or my attorney put on there.

2 MR. DAVIS: Correct.

3 THE WITNESS: I never saw the document
4 with its Bates label on it.

5 BY MR. ROCHE:

6 Q. But this is the ACE self-study?

7 A. This is the ACE self-study, yes.

8 Q. That is the ACE self-study that ACE is
9 claiming in this litigation was an ACE trade
10 secret?

11 A. Yes.

12 Q. All right. Your next answer in
13 Interrogatory No. 4 is curriculum consisting of
14 master syllabi, catalog, SA program and
15 textbooks. Do you see that, Mr. Bump?

16 A. Yes.

17 (Whereupon, Bump Deposition
18 Exhibit No. 5 was marked for
19 identification.)

20 BY MR. ROCHE:

21 Q. What is the exhibit number on that?

22 THE REPORTER: 5.

23 MR. ROCHE: 5. Thanks.
24



1 BY MR. ROCHE:

2 Q. My question, Mr. Bump, is, simply, is
3 that the curriculum which consists of the master
4 syllabi, catalog, SA program that you identified
5 or ACE has identified as a trade secret?

6 A. Catalog and master curriculum is what
7 we're claiming, yes.

8 Q. And that document, Exhibit 5, is ACE's
9 trade secret?

10 A. That is correct.

11 Q. All right. Textbooks. Are you aware
12 if ACE has produced any of the textbooks that it
13 is claiming as a trade secret in this case?

14 A. Produced to your office?

15 Q. Produced to, yes, defendants.

16 MR. DAVIS: Let's go off the record.

17 MR. ROCHE: Sure.

18 (Whereupon, a discussion was had
19 off the record.)

20 THE WITNESS: Can you reread the
21 question?

22 BY MR. ROCHE:

23 Q. Are you aware if ACE has produced the
24 textbooks that it claims constitute its trade



1 secrets in this case?

2 A. We have not.

3 Q. Okay. What textbooks are -- is ACE
4 referring to in this answer?

5 A. It's an anatomy textbook on Moore's
6 Anatomy. It is a current surgical treatment and
7 diagnosis.

8 Q. Who is the author of that book? Is
9 there an author?

10 A. Doherty is his last name. I'm not
11 familiar with his entire name. And Surgical
12 Technology for the Surgical Technologist.

13 Q. Who is the author of that publication?

14 A. There is several. I'm familiar with
15 one of them, so I'll give you his name. Kevin
16 Frye.

17 Q. Any other textbooks that ACE is
18 claiming constitute its trade secrets?

19 A. We have an online textbook.

20 Q. What is that called?

21 A. ACE Workbook.

22 Q. And who is the author of the ACE
23 Workbook?

24 A. I am. Well, I'm the editor of it.



1 There are multiple authors.

2 Q. Who are the multiple authors?

3 A. We took, basically, reports that
4 students wrote and compiled them, put them into
5 a textbook format. So we took the best papers
6 that were available.

7 Q. What do you mean by best papers that
8 were available?

9 A. As part of the program, students are
10 required to write a report on a specific
11 subject. The outstanding ones were compiled
12 with the permission of the student and put in
13 textbook form for an online textbook form for
14 the use of our future students.

15 Q. Did the students who approved the
16 publication of their reports receive any
17 monetary compensation?

18 A. No. And we don't charge for it,
19 either.

20 Q. Don't charge for what?

21 A. That workbook. It is just part of the
22 curriculum.

23 Q. It is part of the ACE surgical
24 assistant program?



1 A. But no charge for it. Yes.

2 Q. Did the students whose outstanding
3 reports were published in connection with the
4 ACE textbook -- I'm sorry, ACE Workbook receive
5 any licensing rights or copyrights?

6 A. No. They signed over the copyrights to
7 us.

8 Q. Let's go back to the first textbook by
9 Doherty, Current Surgical Treatment and
10 Diagnosis. Does ACE have any licensing rights
11 in that textbook?

12 A. No.

13 Q. Does ACE have any copyright?

14 A. No.

15 Q. To the information in that textbook?

16 A. No.

17 Q. Does ACE have any other -- well, strike
18 that.

19 Was ACE a contributing editor to that
20 textbook?

21 A. No.

22 Q. Did you contribute at all individually,
23 based on your experience in surgical tech, to
24 the information contained in the Doherty



1 textbook?

2 A. No.

3 Q. Why then do you claim that this is a
4 trade secret of ACE?

5 A. We don't claim that the textbook in
6 itself is a trade secret. Our compilation of
7 the different reading materials in there, as it
8 contributes to the specific subject under
9 discussion, the way we compiled that is our
10 trade secret.

11 Q. How about the second textbook that you
12 identified, the one in which Frye is the author?
13 Surgical Tech for the Surgical Technologist,
14 does ACE have any licensing rights to that
15 textbook?

16 A. No.

17 Q. Does ACE have any copyright interest in
18 that textbook?

19 A. No.

20 Q. Was ACE a contributing author to that
21 textbook?

22 A. No.

23 Q. Was ACE a contributing editor to that
24 textbook?



1 A. No.

2 Q. Did ACE have any sort of legal interest
3 whatsoever in the Frye textbook?

4 A. No.

5 Q. You personally, did you contribute at
6 all to the information contained in the Frye
7 textbook?

8 A. No.

9 Q. So why does ACE consider the Frye
10 textbook to be a trade secret of ACE?

11 A. It is how we utilize the material in
12 order to create an approved program.

13 Q. Are you aware, Mr. Bump, if the Doherty
14 and Frye textbooks were ever given to any
15 representative of the College of DuPage?

16 A. Yes, they were.

17 Q. When were they given, if you recall?

18 A. They were given pretty -- like in the
19 middle of our whole process. I don't know the
20 dates.

21 Q. Do you know to whom they were given to?

22 A. They were given to Kyle Black, and he
23 was to deliver them, I believe, to Kathy Cabai.

24 Q. And who is Kyle Black?



1 A. He's a representative of Your Extra
2 Hands Surgical Services.

3 Q. And did Your Extra Hands Surgical
4 Services have any type of legal relationship
5 with ACE at the time that ACE gave --

6 A. Not related. I'm sorry.

7 Q. Let me finish the question. At the
8 time ACE gave these textbooks to Mr. Black?

9 A. We didn't have a contractual
10 relationship relating to the College of DuPage.
11 We had one, a training relationship with them.

12 Q. Okay. What do you mean by training
13 relationship?

14 A. So from time to time, they would send
15 some of their employees for training at our
16 facility. And also, they had a service they
17 called insourcing which was a unique way of
18 providing surgical assistant services to
19 hospitals. We had a contract with them. If we
20 were to interact with any healthcare facilities
21 that might be able to take advantage of that,
22 then we would -- then we would get a portion of
23 that, the receipts from that relationship.

24 Q. Okay. We'll get into that a little bit



1 later. Let's move on back to the trade secrets.

2 (Whereupon, Bump Deposition
3 Exhibit No. 6 was marked for
4 identification.)

5 BY MR. ROCHE:

6 Q. I will show you what's been marked as
7 Exhibit No. 6 to your deposition, Mr. Bump.

8 Can you describe this document for me?

9 A. This is a discussion of Kathy needed to
10 provide a budget for this service. And so a
11 document was sent to her, basically, with, you
12 know, what things were expected to cost to put
13 on the lab, and also, the fee that ACE would be
14 requiring as part of that relationship.

15 Q. Okay. If you could turn to the second
16 page, the top says lab budget items for COD. Do
17 you see that?

18 A. Yes.

19 Q. Is this the subject -- if you look at
20 your ACE's interrogatory answer, specifically to
21 number 4. If you could go back to that just for
22 a second, Mr. Bump.

23 A. Okay.

24 Q. The third line says, budgetary



1 information?

2 A. Uh-huh.

3 Q. Was a trade secret of ACE. My question
4 is: Is that what is in front of you as Exhibit
5 6, is that the budgetary information that ACE is
6 claiming constitutes its trade secret?

7 A. Yes. It was basically a document that
8 was put together to help her decide what her
9 facility's budgets is going to be. So these are
10 a list of materials. We didn't provide prices
11 or anything like that. But it gave them
12 information on how they would move forward to
13 purchase all the things that would be necessary
14 for them to purchase under the terms of our
15 agreement.

16 Q. Is that the -- what is identified as
17 Exhibit 6, is that the budgetary information
18 that is identified as an ACE trade secret?

19 A. Yes.

20 Q. Okay. Is there any other budgetary
21 information going back again to ACE's
22 interrogatory answer, aside from what has been
23 identified as Exhibit 6?

24 A. I don't recall us providing anything



1 else besides this.

2 Q. Okay. Let's go back, last question, on
3 Interrogatory No. 4, Mr. Bump.

4 The last one is a Denver surgical skill
5 lab. Why does -- why do you believe that this
6 was a trade secret of ACE's?

7 A. Why do I believe the lab is a trade
8 secret?

9 Q. Yes.

10 A. Because it's unique to us and not only
11 in what we cover, but how we teach it, the
12 teaching methods, what's covered, and the actual
13 performance of the lab itself is unique to us.
14 As part of our contract, we had Kathy attend the
15 full six-day lab because she was going to be the
16 one that was teaching it in relationship to our
17 consortium.

18 And I actually had laid out to her on
19 the phone, or I can't remember how we actually
20 communicated this to her, but what our plan was
21 for getting her up to speed on being able to
22 teach the lab. Part of it was to just attend
23 one, see how that goes.

24 And in the performance, in her



1 performance there, she exhibited a fairly astute
2 understanding, more so than the other students
3 who were there, of what we were teaching. So
4 she had a grasp of it.

5 I actually made a comment to her at
6 that point that it doesn't look like we're going
7 to have to go through this entire range of what
8 I had planned for us. In fact, in my mind, I
9 was thinking probably, you know, spending maybe
10 a week with her or so, just to go over some of
11 the highlights, how to teach the lab and stuff
12 like that, what the -- almost like what the
13 script would be. And then just attend while she
14 was teaching a class or two would be probably
15 the full limit of what we would have to do in
16 order for her to get up to speed on that lab and
17 for her to teach it the way that we would want
18 her to teach it.

19 Q. We'll discuss the skill lab that Kathy
20 attended in July of 2013 a little bit later in
21 your deposition. I just want to go back and ask
22 you another question about Interrogatory Answer
23 No. 4.

24 A. Uh-huh.



1 Q. Is there any other information that's
2 not identified in this answer that as you sit
3 here today you believe constituted an ACE trade
4 secret that was provided to the College of
5 DuPage?

6 A. I can't think of anything else.

7 Q. Okay. Interrogatory No. 5, do you see
8 that that one asks ACE to identify all documents
9 or other materials ACE provided to COD that it
10 believes was proprietary to ACE. And do you see
11 the answer being the same as above?

12 A. Right.

13 Q. My question simply is: As you sit here
14 now, can you think of any other documents or
15 other materials that ACE gave COD that it
16 believes was proprietary to ACE other than what
17 is identified in your answer or ACE's answer to
18 Interrogatory No. 4?

19 A. The only other thing that I can think
20 of but I don't know to the extent that this was
21 done or not, just from memory, was access to our
22 website of the training portion of our website.
23 I can't recall if -- I don't believe it was, but
24 I don't know if when she was here, if she sat



1 down with anybody and was able to peruse the
2 backside of our website, how we deal with our
3 students on the website.

4 I just know that at some point they
5 were saying they didn't want to use our website.
6 I don't know if that was just because they
7 preferred theirs or they saw ours and they
8 preferred theirs as a result of seeing ours. I
9 can't answer it with absolute certainty whether
10 they saw it or not.

11 Q. Do you know --

12 A. But if they did, I would add that to
13 that.

14 Q. Okay. Do you know if they -- if anyone
15 at COD was ever granted access by ACE to the ACE
16 website?

17 A. I don't specifically recall that.

18 Q. Do you know if anyone else at ACE would
19 have a specific recollection as to whether COD
20 representatives had access to ACE's website?

21 A. Keith or Maggie Parrish, if it
22 happened, they would probably have a better read
23 on that than I did.

24 Q. And by website, I'm referring to



1 signing in.

2 A. Yeah. Sign in. You could either gain
3 access to how students see the website, like if
4 we gave you access as a student, they would get
5 that, or if you needed to see what happens on
6 the administrator's side, how we log in specific
7 things that students have done, how papers are
8 graded, for instance, you know, that kind of
9 thing. I think it was well described to them.
10 I just don't recall if they were actually able
11 to see it themselves.

12 Q. Keith or Maggie may have knowledge as
13 to whether or not --

14 A. If it happened.

15 Q. -- COD representatives had access to
16 both how students see the website?

17 A. Yeah.

18 Q. And how the website is administrated?

19 A. If it happened.

20 Q. If it happened. Okay.

21 A. My answer was strictly related to if
22 that happened, we would assume that would be
23 part of our allegation, as well. But I'm
24 assuming it didn't happen, basically, because it



1 is not in the list.

2 Q. Okay. Moving on to number 6.

3 A. Uh-huh.

4 Q. ACE's answer to Interrogatory No. 6.

5 Do you see that?

6 A. I would say the same as above.

7 Q. Is there any other -- as you sit here
8 right now, Mr. Bump, are there any other
9 documents or other materials that ACE believes
10 COD is using that was information, materials
11 that was provided by ACE to COD?

12 A. No.

13 Q. Okay. Interrogatory No. 7 asks ACE to
14 identify the date of the contract between ACE
15 and COD. Do you see that?

16 A. I do.

17 Q. And do you see ACE's answer is December
18 9, 2013?

19 A. I see it, yes.

20 Q. And is that the -- do you have any
21 reason to believe that the date of the contract
22 between ACE and COD was not December 9, 2013?

23 A. No.

24 Q. Okay. Great.



(Whereupon, Bump Deposition
Exhibit No. 7 was marked for
identification.)

BY MR. ROCHE:

Q. Mr. Bump, I show you what's been marked
as Exhibit No. 7. Have you seen this document
before?

A. Yes.

Q. Do you recall reviewing the answers to
that document?

A. I believe I do. Yes.

Q. Did you approve those answers?

A. Yes.

Q. Okay. Let's discuss the corporate
structure of ACE.

ACE was -- what year was ACE
incorporated in?

A. In September, I believe, of 2002.

Q. In 2013, who was -- who were the owners
of ACE?

A. Just me.

Q. You were 100 percent shareholder?

A. Yes.

Q. Okay. Are you presently, today, 100



1 percent -- the 100 percent shareholder of ACE?

2 A. Yes.

3 Q. Have you always been the sole
4 shareholder of ACE?

5 A. Yes.

6 Q. From the date ACE was incorporated in
7 2002 to the present?

8 A. Yes.

9 Q. In 2013, did ACE have a board of
10 directors?

11 A. Yes.

12 Q. Who was on the board of directors in
13 2013 at ACE?

14 A. That was just me and Ramona Bump.

15 Q. Is Ramona your wife?

16 A. Yes.

17 Q. How about 2013 and 2014, did ACE have a
18 board of directors?

19 A. Yes.

20 Q. And who were the members of the board
21 of directors for ACE in 2014?

22 A. The same. That's all it has ever been.

23 Q. Ramona and yourself?

24 A. Yes.



1 Q. From 2002 through 2017?

2 A. Yes.

3 Q. The board of directors for ACE has
4 consisted of your wife, Ramona, and you?

5 A. Yes.

6 Q. In 2013, did -- who were the officers
7 of ACE, if you recall?

8 A. That was myself, Keith, and Maggie.

9 Q. And what was your role as officer of
10 ACE in 2013?

11 A. President, CEO, and program director.

12 Q. What was Keith Bump's role as an
13 officer of ACE in 2013?

14 A. Vice president sales and marketing.

15 Q. What was Maggie Parrish's role as an
16 officer of ACE in 2013?

17 A. Vice president of student affairs.

18 Q. What was -- in 2013, what was Maggie
19 Parrish's duties and responsibilities as vice
20 president of student affairs for ACE?

21 A. She was -- she handled student -- how
22 would I say it? The same as customer service,
23 only just for students.

24 Q. In 2003 -- excuse me. In 2013, what



1 was Keith Bump's duties and responsibilities at
2 ACE in connection with his position as vice
3 president of sales and marketing?

4 A. He was to -- if I remember right, he
5 was -- we had other people in the sales
6 department at that time. So he was sales
7 manager. He's currently the only person in
8 sales, but I'm trying to remember back then. He
9 was sales manager. I think there were three
10 other salespeople. And he was also in charge of
11 selling the service that we had between ACE and
12 YEHSS, Y-E-H-S-S.

13 Q. Is that Your Extra Hands Surgical
14 Services?

15 A. Yes.

16 Q. It is going to be -- it's the acronym
17 for that will be Y-E-H-S-S.

18 Who were the other three salespeople,
19 if you recall, Mr. Bump, that your brother Keith
20 was in charge of in 2013?

21 A. There was Gabriel. I only remember
22 first naming. Bicking. Gabriel Bicking.

23 Q. Can you spell it?

24 A. B-I-C-K-I-N-G.



1 John Redmond.

2 Q. Can you spell Mr. Redmond's last name?

3 A. R-E-D-M-O-N-D.

4 And Jack Simmons, S-I-M-M-O-N-S.

5 Q. And Gabriel, John, and Jack are no
6 longer employed at ACE?

7 A. Correct.

8 Q. Do you recall --

9 A. They had nothing to do with any of
10 this.

11 Q. Do you recall when Gabriel, is that a
12 male or a female?

13 A. A male.

14 Q. A male. Do you remember when
15 Mr. Bicking left ACE?

16 A. No. We would have it in our HR
17 records.

18 Q. How about Mr. Redmond, do you recall
19 when Mr. Redmond terminated his employment?

20 A. It was some time after. Those two left
21 probably six months later, something like that.

22 Q. In 2014?

23 A. If that's --

24 Q. If you remember?



1 A. I don't remember the date.

2 Q. That's fine.

3 How about Mr. Simmons, do you recall?

4 A. The same date as John.

5 Q. In 2014, did ACE have officers other
6 than yourself, Keith, and Maggie Parrish?

7 A. No.

8 Q. In 2013, how many employees did ACE
9 have, Mr. Bump?

10 A. Counting me, I think seven.

11 Q. And the employees would have been
12 yourself, Keith Bump, Maggie Parrish, Gabriel
13 Bicking, John Redmond, and Jack Simmons?

14 A. And we have a receptionist as well.
15 Her name was Tina. I don't remember her last
16 name. I don't remember her last name.

17 Q. She was ACE's receptionist?

18 A. Uh-huh.

19 Q. Maggie Parrish. In 2013, did Maggie
20 Parrish have any formal training in surgical
21 assisting?

22 A. No. She wasn't a surgical assistant.

23 Q. To your knowledge, has Ms. Parrish ever
24 had any training in surgical assisting?



1 A. No, she hasn't.

2 Q. How about 2014, do you recall in 2014
3 how many employees ACE had?

4 A. It would be the same.

5 Q. And presently, how many employees does
6 ACE have?

7 A. Four.

8 Q. And who are those employees?

9 A. Myself, Tabitha, Keith, and Maggie.

10 Q. Okay. You testified earlier, Mr. Bump,
11 that I believe in 1973, you joined the Navy; is
12 that right?

13 A. Yes.

14 Q. In what capacity did you join the Navy?

15 A. Enlisted. Is that what you're looking
16 for?

17 Q. Yeah. Well, I think you said you went
18 into surgical tech in the Navy?

19 A. Right. I went through a school that
20 they had for surgical tech. I was first --
21 first I went into -- I became a medic or what
22 they call a hospital corpsman. That was my
23 first level of training. Two years later, I
24 went to a surgical tech program which was more



1 advanced.

2 Q. Did at one point you serve at the Naval
3 Submarine Medical Center; is that right?

4 A. Yeah.

5 Q. Do you recall what years those were,
6 Mr. Bump?

7 A. 75 through 78.

8 Q. And then when did you leave the service
9 in the Navy?

10 A. At the end of 78.

11 Q. What did you do from the time you left
12 the service in the Navy in 1978?

13 A. Well, first of all, I tried to get a
14 job in the hospital that was local. They
15 weren't hiring people like me, military people.
16 And eventually, I got in, and it's probably
17 about a couple years later. And in the
18 meantime, I had taken on several, like, just any
19 kind of jobs I could get.

20 And so, the hospital where I finally
21 got a job at was called Lawrence Memorial
22 Hospital. And for a while, I just took any job
23 in there so I'd just get my foot in the door.
24 So I worked in central sterile services for a



1 while, and then I finally got a job in the
2 operating room there as a surgical tech.

3 Q. And how long were you employed at
4 Lawrence Hospital for?

5 A. Until 1989.

6 Q. Do you recall when you began your
7 employment at Lawrence Hospital?

8 A. It would be a little bit of a guess,
9 but I think it was maybe 1980 or something like
10 that.

11 Q. When did you at Lawrence Hospital, when
12 did you -- if you remember, when did you become
13 a surgical tech at Lawrence Hospital?

14 A. I probably worked as a surgical tech
15 there for five years or so. So if you back time
16 that.

17 Q. Okay. And then where did you go after
18 you left Lawrence Hospital in 1989?

19 A. I was invited to Denver, Colorado, to
20 join a group of surgical assistants. The same
21 group I told you had an apprenticeship-type
22 program to train you to be a surgical assistant.

23 Q. And what was the name of that entity?

24 A. Colorado Surgical Assisting. They're



1 no longer in business.

2 Q. What were your duties and
3 responsibilities at Colorado Surgical Assisting?

4 A. To provide surgical assisting services
5 to the Denver area surgeons and to train people
6 for. So I became in charge of that
7 apprenticeship-type program I was telling you
8 about.

9 Q. Uh-huh.

10 A. At some point we had decided that --
11 actually, I kind of instigated this. We decided
12 that instead of just inviting people to join us
13 and provide that training for them, that we
14 should open that training up for anybody that
15 was qualified to take it.

16 And after, I don't know, maybe a year,
17 year and a half, the partner who owned the
18 Colorado Surgical Assistant just decided to let
19 that go. And because he was really just
20 interested in taking people under his arms,
21 teaching them everything that he knew for the
22 purpose of populating that company with
23 well-trained assistants, and I thought that it
24 might be a better idea if we made it available.



1 Because the reason I thought that was because as
2 a result of the training that I got, I was able
3 to do things in surgery I never thought I'd be
4 able to do unless I went to medical school. And
5 I was able to make a living that I thought maybe
6 I'd have to go to medical school to make.

7 So as a surgical tech, I was making
8 like \$35,000 a year working 50, 60 hours a week,
9 to make that back in the mid-80s. And the first
10 year that I started with Colorado Surgical
11 Assisting -- and by the way, just to explain
12 that a little further. I wasn't an employee.

13 Q. You were not an employee?

14 A. I was not an employee.

15 Q. Of Colorado Surgical Assisting?

16 A. Right. I was not like a partner, but I
17 was an associate in that group. And so we
18 basically all owned. Everybody that was
19 assisting were self-employed. And Colorado
20 Surgical Assisting just provided extra services
21 that we needed and we were able to like unit
22 together as a group.

23 Q. During your employment -- or well,
24 during your affiliation with Colorado Surgical



1 Assisting, did you serve as a surgical assistant
2 in operating rooms?

3 A. Yes.

4 Q. At hospitals?

5 A. Yes.

6 Q. Can you describe to me, Mr. Bump, what
7 a surgical assistant is in the operating room?

8 A. Sure.

9 I have to take you back a little bit to
10 what a tech is to compare it.

11 Q. Okay.

12 A. Okay. A surgical tech is the person
13 that hands instruments to the surgeon and to his
14 assistant.

15 Q. Okay.

16 A. Okay. And they -- so they monitor --
17 they set up and monitor the surgical field, make
18 such the surgeon has everything they need during
19 a case and are so familiar with what happens
20 during the case that they can provide an
21 instrument, for instance, almost before the
22 surgeon even knows they need it. That's their
23 job.

24 The person that stands right across



1 from the surgeon and helps them do the surgery
2 and needs all the same skills as a surgeon has
3 is the surgical assistant. So there is,
4 actually, in some surgeries that you might do
5 with a surgeon, you might have to do half the
6 surgery yourself, not with the surgeon gone.
7 The surgeon has to be there to supervise.

8 Like, for instance, as an example, if
9 we were doing a total abdominal hysterectomy and
10 you have ligaments and vessels going on each
11 side of the uterus and they have to be ligated,
12 cut and tied off and there is dissections that
13 have to take place. Well, a surgeon would work
14 on their side. They would expect us to do all
15 those same things on our side.

16 So we, basically, had to have all the
17 same skills a surgeon has and bring with us the
18 same kind of knowledge to the surgery that
19 another surgeon would if they were assisting on
20 the procedure. And that's what our mission is
21 at ACE, is to train students to have those kinds
22 of skills and that kind of knowledge.

23 Q. To be a certified surgical first
24 assistant, does an individual have to obtain an



1 M. D. ?

2 A. No.

3 Q. They do not need to attend medical --
4 do they need to even attend medical school?

5 A. No. They're referred to as non-M. D.
6 surgical assistants.

7 Q. But surgical assistants do perform
8 procedures on patients during surgery?

9 A. Under the supervision of the surgeon.

10 Q. Okay. Whereas --

11 A. Not autonomous at all.

12 Q. Whereas, surgical assistants do not
13 perform any procedures on the particular patient
14 during surgery?

15 A. Are you messing up surgical tech and
16 surgical assistant? It sounds like you're
17 asking me.

18 Q. Or surgical tech. I'm sorry.

19 A. No, they do not.

20 Q. Okay. All right.

21 So back to the Colorado Surgical
22 Assisting. I believe you testified you were
23 also serving as a first assistant in operating
24 rooms?



1 A. Right. About half my time I was
2 working in the operating room. The other half I
3 was working on education programs.

4 Q. And was that the first time you had
5 started working on educational programs for
6 surgical assisting?

7 A. When I joined that group, yes.

8 Q. When you were affiliated with Colorado
9 Surgical Assisting?

10 A. Yes.

11 Q. When you were at Lawrence, Lawrence
12 Memorial Hospital, did you serve as the first
13 assistant during your tenure then?

14 A. Not -- that wasn't my job description.
15 But what happens with surgical techs is that the
16 first assistant -- the first assistant doesn't
17 show up or they're late, usually it is another
18 tech, a surgical tech or the same one is handing
19 instruments will also assist in the surgery. So
20 I -- and when I was in the military, I had first
21 assisting experience.

22 Q. Okay. Back to surgical assistant. To
23 become one, do you have to have a college degree
24 to become a certified surgical first assistant?



1 A. No.

2 Q. Do you have to have a college degree to
3 become SA-C certified?

4 A. No.

5 Q. Back to your employment.

6 A. Most people --

7 Q. Go ahead.

8 A. -- do have. But it is not required.

9 Like, for instance, if you're a tech, and this
10 is pretty recent. This wasn't back when I was a
11 tech. Usually a tech now graduates with an
12 associate's degree. So people now becoming
13 assistants usually at least have that or they're
14 a nurse and they have a degree. We also get
15 M.D.s in our program. We get physician's
16 assistants and nurse practitioners who want to
17 do what we do.

18 Q. When did your affiliation with Colorado
19 Surgical Assisting end, if you remember the
20 year?

21 A. Yeah. 1995.

22 Q. And then what did you do?

23 A. I started a school.

24 Q. What was the name of the school?



1 A. The National Institute of First
2 Assisting. So, basically, remember I said I was
3 having issues with the guy that owned Colorado
4 Surgical Assisting. He wanted to go back to the
5 original thing that we were doing which is just
6 training people for our school alone -- I mean,
7 for our agency alone. And so we kind of bumped
8 heads on that, and I just left and started my
9 own school at that point.

10 Q. What was your view of what Colorado
11 Surgical Assisting, the direction the company
12 should have gone?

13 A. I think it was fine. I mean, I just
14 wanted to do something different. I wanted
15 Colorado Surgical Assisting to become a national
16 school that could provide that same kind of
17 training to people who wanted to either start
18 their own agency or go back to their hospital
19 and provide those services.

20 Q. Okay. And then you started your own
21 company called National Institute of First
22 Assisting?

23 A. NIFA for short.

24 Q. NIFA?



1 A. N-I-F-A. I thought that was an
2 appropriate surgical name.

3 Q. Were you the sole share shoulder, sole
4 owner of that?

5 A. No, I still own it.

6 Q. I'm sorry?

7 A. I would still own it if I was. I was
8 there with a partner. He wasn't a medical guy.
9 He was just sales and marketing. We started
10 something new, basically. There wasn't anything
11 like this in the country. And so I needed
12 somebody who had sales and marketing savvy to
13 get that word out. And it worked out pretty
14 good.

15 Q. What was your partner's name?

16 A. Jerry Kekos.

17 Q. Can you spell the last name?

18 A. K-E-K-O-S. And he still owns NI FA.

19 Q. Is NI FA a competitor of ACE's?

20 A. It would have been if he kept it like
21 it was.

22 Q. How did he change it?

23 A. He changed -- well, see, there is a lot
24 of different people that can take advantage of



1 this kind of training. So like I said, nurses
2 that are operating room nurses, surgical techs,
3 nurse practitioners, physicians assistants,
4 doctors even like to take this course. And he
5 decided that after I left, he wanted to narrow
6 that down to just nurses. So, yeah, he competes
7 with us in that small little niche, but we also
8 have these other people take our program as
9 well.

10 Q. Did you have an ownership interest in
11 NI FA?

12 A. 50/50.

13 Q. 50/50.

14 And how long were you at NI FA for?

15 A. Until I left and started ACE. That's
16 around 2000 -- the end of 2002.

17 Q. What was your job responsibilities
18 during your employment at NI FA?

19 A. I was the president. And I had a full
20 responsibility for everything, training and
21 medical.

22 Q. And then there was -- you started ACE,
23 incorporated ACE in 2002; is that right?

24 A. Yes.



1 Q. Okay.

2 A. I believe it was September. Then we
3 started offering the program in March, the next
4 year.

5 Q. Okay.

6 MR. ROCHE: Let's take a quick break.

7 (Whereupon, a short break was
8 taken.)

9 BY MR. ROCHE:

10 Q. Back on the record.

11 Mr. Bump, let's talk about ACE from the
12 time it was incorporated in 2002 up through
13 2013.

14 A. Okay.

15 Q. Can you just describe, Mr. Bump, the
16 nature of ACE's business during that time
17 period?

18 A. The nature of ACE's business hasn't
19 really changed. It's, basically, we advertise
20 that we have a training program that's related
21 to hospital -- that's related to surgical
22 assisting, and it's to kind of a niche audience
23 because there are requirements that you have to
24 have before you can get into the program. It



1 might be you have to be a tech or a nurse or,
2 you know, so on. You have to provide those
3 credentials. Generally speaking, you have to
4 have a certain level of experience in the
5 operating room to even qualify to get in.

6 Q. Into ACE?

7 A. Right.

8 Q. Okay. And what is ACE -- so it is a
9 surgical assistant program?

10 A. Right.

11 Q. Okay. From 2002 to 2013 -- well, let
12 me ask it this way.

13 From 2002 up to the present, has ACE
14 basically, has the surgical assisting program
15 for ACE effectively remained the same?

16 A. Fairly close. We had to make some
17 changes, just objective changes in our distance
18 learning to qualify for CAAHEP accreditation.

19 Q. How does the program work? How did the
20 program work?

21 A. Well, still the same. So there is nine
22 months or so of distance learning unless you
23 sign up under the enhanced access program which
24 allows you to speed that up, basically. So



1 there is nine modules. You get one a month
2 under the routine of the program. If you get
3 enhanced access, you don't have to wait for the
4 month to be over. As soon as you're done, you
5 can move on to the next thing.

6 Q. Does a student have to pay extra to
7 have the enhanced access?

8 A. Yes.

9 Q. How much is that?

10 A. 695. That probably has changed over
11 the years, but I don't recall how much.

12 Q. Okay. Nine online modules can be
13 completed either within the nine-month period?

14 A. Or sooner or later. Somebody might
15 say, well, I know this material real well. I
16 can speed through this. But I want to take even
17 more than a month on this one.

18 Q. Are there any other features of the ACE
19 surgical assistant program aside from the online
20 modules?

21 A. Yeah. There is they have to write a
22 report like the ones I was telling you about
23 before. And they have to attend the six-day
24 lab. That's where they get their surgeon-like



1 skills. And then they have to do a clinical
2 internship at the hospital where they were sent
3 from. And then that consists of doing 135 cases
4 as a first assistant. And there are specific
5 specialties that they have to go through.

6 Q. Was ACE ever accredited with the
7 Commission on Allied Health Education Programs?

8 A. Yes.

9 Q. Is the acronym for the Commission on
10 Accreditation on Allied Health Education
11 Programs CAAHEP?

12 A. Yes.

13 Q. C-A-A-H-E-P; is that right, Mr. Bump?

14 A. Yes.

15 Q. What is CAAHEP?

16 A. They're an accrediting body that
17 accredits allied health education programs. Not
18 just surgical assisting. They accredit surgical
19 tech. They accredit fields not related to
20 surgery. Like I think they accredit
21 phlebotomists and that kind of thing, too.

22 Q. Lobotomy?

23 A. No. Phlebotomist.

24 Q. Phlebotomists. Okay.



1 A. You just opened up a whole new career
2 avenue.

3 Q. Don't perform those surgeries.

4 Do you recall the years ACE was CAAHEP
5 certified?

6 A. Accredited.

7 Q. Or accredited?

8 A. From January 2009 to February 2012.

9 Q. Why did ACE decide to pursue
10 accrediting with CAAHEP?

11 A. The industry thought highly of that,
12 and so we gained access to a whole new market as
13 a result of getting that CAAHEP accreditation.

14 Q. What new market are you describing?

15 A. Well, the accreditation comes, is
16 basically for a group of people who think highly
17 of the Association of Surgical Technologists.
18 So that CAAHEP accreditation came out of that
19 institution. And so people that are members of
20 that institution are taught to think highly of
21 CAAHEP accreditation. So that would open that
22 market up to us of people who thought highly of
23 CAAHEP accreditation.

24 Q. Can you just elaborate when you say



1 people, are you referring to hospitals?

2 A. Sometimes hospitals. Sometimes
3 hospitals are biased in favor of that. But
4 mainly hospitals are just concerned about their
5 people being able to get certified. The members
6 of AST are the ones that I'm referring to. If
7 you're a member of the Association of Surgical
8 Technologists.

9 Q. That's AST, the acronym?

10 A. Yes.

11 Q. Okay.

12 A. Then they -- they're -- I don't want to
13 use the word brainwashed, but it is almost like
14 they're brainwashed in favor of that as opposed
15 to other alternatives.

16 Q. Did -- what do you mean by -- Mr. Bump,
17 what do you mean by new market? New market of
18 students?

19 A. Yes, new market of students.

20 Q. Okay. And the students would come from
21 where?

22 A. They would usually be AST members.

23 Q. Students who were AST members would go
24 to ACE because ACE was CAAHEP certified because



1 AST members thought so highly they were
2 brainwashed to think highly of CAAHEP?

3 A. That whole thought process came out of
4 that organization. So they highly touted and
5 put other alternatives down.

6 Q. Did ACE's enrollment of students
7 increase during this time period?

8 A. Absolutely.

9 Q. From 2009 to 2012?

10 A. Yes. I can't really comment on how
11 much, but I definitely can comment.

12 MR. DAVIS: When he asks the question,
13 let him finish the question before you answer.

14 THE WITNESS: Okay. Sorry. Are you
15 ready?

16 BY MR. ROCHE:

17 Q. Yes.

18 A. Okay. I'm kind of like that in real
19 life too. Sorry.

20 I can't really comment so much on how
21 much it increased, but I know much it decreased
22 when we lost it. We lost about half of our
23 business.

24 Q. Half the student enrollment?



1 A. Student enrollment went down about
2 half.

3 Q. ACE's student enrollment declined about
4 50 percent when ACE was no longer certified by
5 CAAHEP?

6 A. Correct.

7 Q. Do you recall what ACE's enrollment was
8 during the time it was accredited by CAAHEP?

9 A. I mean, if we use the figures I just
10 said, we're currently enrolling between 90 and
11 100 students. So it is near double that.

12 Q. During 2009 through 2012?

13 A. Uh-huh.

14 Q. Why did ACE no longer -- well, strike
15 that.

16 Why did ACE become unaccredited by
17 CAAHEP?

18 A. They instituted a new rule. The new
19 rule -- and the way it was put to me because we
20 appealed the whole thing. The way it was put to
21 me in the appeal was we weren't doing that just
22 to get you out, this new rule. We wanted to
23 eliminate the entire realm of what we would call
24 mom-and-pop organizations.



1 So the new rule was not only did -- not
2 only do you have to get CAAHEP accredited for
3 your program, but from now on, we will only
4 accept CAAHEP accredited programs from
5 accredited institutions like community colleges
6 and stuff like that.

7 **Q. Could ACE become an accredited**
8 **institution?**

9 A. Yes. We could have. And in fact, we
10 tried that but weren't given enough time. We
11 could have done it if we had an extension on the
12 time that we were given, but CAAHEP didn't go
13 for it. They weren't going to allow an
14 extension.

15 **Q. Do you recall what the requirements**
16 **were to become an accredited institution by**
17 **CAAHEP?**

18 A. Well, CAAHEP didn't -- there is lots of
19 organizations that accredit institutions rather
20 than programs. And they had a list of people we
21 could go through. So we had a guy who was a
22 consultant for us that recommended this one, and
23 so we went with that. And we had about nine
24 months to make it happen. And that was a rush.



1 We had to really rush. And that didn't work out
2 right.

3 Q. Do you recall what ACE had to do to try
4 and become accredited institution during this
5 nine-month period?

6 A. Well, it was very similar to getting
7 CAAHEP accredited because we remember before
8 that CAAHEP had to cover all the issues relating
9 to the institution, as well as to the program.
10 And I don't know if this was part of their
11 strategy so that they could just streamline
12 their function and relate it just to programs
13 and leave the institutional stuff to somebody
14 else or it could have been that they were just
15 trying. Like they even said, let's get rid of
16 these small organizations and go for the -- like
17 the community colleges and stuff like that.

18 So we really had two routes we could
19 have gone through. We could have gotten
20 institution accreditation ourselves, if we had
21 enough time to do it, or we could have gone with
22 somebody like College of DuPage, which was our
23 reason why we wanted to do that, so that they
24 could sponsor the program and they would count



1 that as the institutional accreditation that
2 they were looking for.

3 Q. Do you know if the College of DuPage
4 was accredited with CAAHEP during 2013?

5 A. Well, CAAHEP doesn't --

6 Q. Just my --

7 A. Yes or no?

8 Q. Yes. Well, do you understand my
9 question? I'm just -- my question simply is:
10 Do you know if the College of DuPage was
11 accredited by CAAHEP in 2013 for its surgical
12 assistant program?

13 MR. DAVIS: Well, I'm going to object to
14 form on that because CAAHEP doesn't accredit
15 colleges. So your question is did they credit
16 COD? CAAHEP doesn't accredit colleges.

17 BY MR. ROCHE:

18 Q. Okay. I'll withdraw it.

19 ACE is -- in 2013, ACE was --

20 MR. DAVIS: Let me -- did COD have
21 programs that were accredited by CAAHEP?

22 THE WITNESS: I think so. I don't know
23 that for sure.

24 MR. DAVIS: Okay.



1 THE WITNESS: But they have a surgical
2 tech program, and that probably was CAAHEP
3 accredited.

4 BY MR. ROCHE:

5 Q. Do you know as you sit here today if it
6 was CAAHEP accredited in 2013?

7 A. No.

8 Q. As you sit here today, do you know if
9 it was -- if the COD's surgical tech program was
10 accredited with CAAHEP in 2014?

11 A. I don't know.

12 Q. ACE is -- strike that.

13 In 2013, was ACE accredited with any
14 institution?

15 A. Well, we got our -- we weren't
16 accredited. We got our educational credential
17 by approval process because in this industry,
18 surgical assistant programs either get their
19 education credential from accredited body or a
20 certifying body. And we have our credential
21 through a certifying body and we always have.
22 So during the period of time where we had CAAHEP
23 accreditation, we also had this approval via a
24 certified agency.



1 Q. What was the name of the certifying
2 agency?

3 A. The American Board of Surgical
4 Assistants. ABSA.

5 Q. Do you own any interest, legal interest
6 in the ABSA?

7 A. No.

8 Q. What did ACE have to do to obtain
9 certification by the ABSA?

10 A. We had to submit our curriculum for
11 approval, and that includes the lab and
12 everything.

13 Q. And what year, if you remember,
14 Mr. Bump, did ACE become approved or certified
15 by the ABSA?

16 A. Well, when we started offering programs
17 in 2003, March 2003, we were approved at that
18 point. I don't know what the specific month
19 was.

20 Q. What is the difference, Mr. Bump,
21 between a certifying body such as the ABSA and
22 an accrediting body such as CAAHEP?

23 A. The difference, as we experience it, is
24 the whole reason to get either one, is so that



1 graduates of your program can become certified
2 in their field. And so the way that the AST
3 does that is they've outsourced that to CAAHEP.
4 And then they accept anybody graduated from a
5 CAAHEP accredited program as qualifying for
6 their certifying exam. You kind of bypass all
7 of that with the certifying agencies because
8 they specifically accredit or approve you for
9 graduates of your program to take their exam.

10 Q. Does AST -- or strike that.

11 Did -- in 2003, did AST administer a
12 certifying exam?

13 A. Well, one of their branches does. The
14 NBSTSA.

15 Q. And a student -- was that the same
16 process to your knowledge in 2014, as well?

17 A. Yes.

18 Q. That the NBSTSA administered a
19 certifying exam on behalf of the AST?

20 A. Correct.

21 Q. Okay. And a student who successfully
22 passed the exam administered by the NBSTSA would
23 obtain what certificate?

24 A. The CSFA.



1 Q. In 2013, Mr. Bump, was a student who
2 graduated from ACE's program eligible to sit for
3 the CSFA exam?

4 A. That all depends when they were
5 enrolled because the rule with CAAHEP is if they
6 were in a CAAHEP accredited program at anytime,
7 even if before they graduated, their CAAHEP
8 accreditation was withdrawn, they are still
9 counted as graduating from a CAAHEP accredited
10 program.

11 Q. ACE was no longer -- was -- I'll call
12 it decertified by CAAHEP in 2012?

13 A. Yes. So anybody that was in the
14 program before then, even though or even after,
15 as long as they enrolled in the program while we
16 were still CAAHEP accredited would still be
17 counted as having graduated from a CAAHEP
18 accredited program so they could qualify to take
19 that exam.

20 Q. If a student who enrolled in 2013 with
21 ACE prior -- or excuse me, after ACE lost its
22 CAAHEP accreditation, would that student be
23 eligible to sit for the CSFA?

24 A. If they enrolled after that date, no.



1 Q. In 2014 -- in 2014, was a student who
2 graduated from ACE's program eligible to sit for
3 the CSFA exam?

4 A. As long as they enrolled after the 2012
5 date, they were not eligible. They could
6 still -- see, some students take quite a while
7 to get through the program. They might have to
8 have extensions to finally get through the
9 program and graduate. So I believe we still
10 have two people in the program now because they
11 had to take leave of absences and stuff that
12 would qualify to take that exam.

13 Q. Let's discuss ACE's previous
14 experience, if any, with academic institutions
15 before it engaged in negotiations with COD.

16 Mr. Bump, prior to the consortium,
17 proposed consortium with the College of DuPage,
18 had ACE ever entered -- excuse me, had ACE ever
19 entered into consortiums with academic
20 institutions to provide ACE's surgical assistant
21 program?

22 A. No.

23 Q. Prior to the proposed consortium with
24 COD had ACE ever attempted to enter into



1 consortiums with academic institutions to
2 provide ACE's surgical assistant program?

3 A. We were in conversation -- we were in
4 conversations with others, just on an
5 introductory basis.

6 Q. What do you mean?

7 A. That never really went anywhere. In
8 other words, Keith, in his pursuit of getting
9 contracts with hospitals for our relationship
10 with YEHSS would occasionally come across a
11 college that was at least at first excited about
12 it, but then never really followed up.

13 Q. Do you recall the names of the other
14 colleges that ACE attempted to enter into --

15 A. No.

16 Q. -- consortiums with?

17 A. No.

18 Q. Do you know why -- as you sit here
19 today, do you know why those other colleges
20 ultimately declined to partner with ACE?

21 A. No. It is just like it fizzled out for
22 no reason.

23 Q. Do you recall the number of other
24 colleges that seemed interested initially?



1 A. It wasn't a lot. It was like two.

2 Q. Two?

3 A. Yeah.

4 Q. You do not recall, as you sit here
5 today, the names of those?

6 A. No. That was quite a while ago. So
7 I'm not even sure if Keith would remember them
8 or not, but he probably would. He is good like
9 that. I'm the one who has Alzheimer's disease.

10 MR. DAVIS: Do you, really?

11 THE WITNESS: No.

12 BY MR. ROCHE:

13 Q. Let's look at some documents.

14 (Whereupon, a discussion was had
15 off the record.)

16 (Whereupon, Bump Deposition
17 Exhibit No. 8 was marked for
18 identification.)

19 BY MR. ROCHE:

20 Q. Let's take a look at this exhibit.

21 Exhibit 8.

22 Mr. Bump, I show you what's been marked
23 as Exhibit 8 to your deposition. It is an email
24 communication, along with some attachments. My



1 question is: Do you recall reviewing this
2 email? The first page of the document indicates
3 that you were cc'd on it. I'm just simply
4 wondering if you recall this email?

5 A. I remember, you know, conversations
6 with them, yes. It seems familiar. Yes.

7 Q. Okay. Can you describe the document
8 Bates labeled YEHSS1484 through YEHSS1495?

9 A. Where is it labeled? Oh, down here.
10 Okay.

11 This is our program catalog, describes
12 our program as of that time.

13 Q. And can you go back on the first page
14 of this email, and do you know if Mr. Bump,
15 Keith Bump ever indicated to the recipient of
16 this email whether the attachment was
17 confidential information to ACE?

18 A. I don't believe so.

19 Q. Do you know if Mr. Bump ever, Keith
20 Bump, after sending this email, communicated to
21 the recipient, Ms. Ferrari, that the information
22 was confidential and proprietary to ACE?

23 A. He wouldn't have done that.

24 Q. Why?



1 A. Because it's a document that we used to
2 inform people of our program.

3 Q. Do you consider that document Bates
4 numbered 1484 through 1495 to be confidential
5 information to ACE?

6 A. Confidential unless we give it to
7 somebody.

8 Q. In which case?

9 A. In we choose to give it to them, it is
10 not confidential to that person.

11 Q. That person could do whatever he or she
12 wanted with this -- with the information, the --
13 strike that.

14 A recipient --

15 A. Students get this.

16 Q. Students get this?

17 A. Our prospective students get this.

18 Q. And students can do whatever they want
19 with that document?

20 A. That is true.

21 Q. They can publish it online if they
22 wanted to?

23 A. It is a copyrighted document that we
24 wouldn't -- we would pursue that if they did



1 that.

2 Q. Where is the copyright?

3 A. It is not a registered copyright. As
4 you know, anybody can claim copyrighting of
5 their materials without going through
6 institutional copyrighting.

7 Q. When ACE provides a student with the
8 program catalog, does ACE notify that student
9 that that program catalog is subject to
10 copyright protection under applicable law?

11 A. No.

12 Q. Let's go back with -- I just want to go
13 back to some line of questioning with respect to
14 the proposed consortiums, which I think you
15 identified as two colleges?

16 A. Uh-huh. Those were actually proposed
17 consortiums, not like the contract we have with
18 COD.

19 Q. What was the difference, if you
20 remember, between?

21 A. The difference is they were just
22 initial conversations that never went anywhere.

23 Q. Do you know as you sit here now whether
24 ACE transmitted any information to those two



1 colleges that it now claims in this litigation
2 constituted trade secrets or confidential
3 information?

4 A. If we did transfer anything, and I'm
5 assuming we did, it would have been this
6 document.

7 Q. The program?

8 A. Yeah.

9 Q. During this time period in 2013,
10 Mr. Bump, was ACE also actively trying to pursue
11 consortiums with hospitals?

12 A. No.

13 Q. As well?

14 Okay. If you look at Exhibit 9.

15 A. I don't know what Exhibit 9 is.

16 MR. DAVIS: Exhibit 8 is the last one.

17 MR. ROCHE: Oh, Exhibit 8 is -- okay.

18 I'm sorry.

19 BY MR. ROCHE:

20 Q. If you look at Exhibit 8, Mr. Bump, do
21 you know who the recipient of this email is?

22 A. Ms. Ferrari. No. It looks like she
23 has maybe a hospital address.

24 Q. And the body of the email indicates



1 that Keith Bump is discussing the combined
2 benefits of the ACE YEHSS surgical assistant
3 training and insourcing program?

4 A. Correct.

5 Q. Do you know why Keith Bump would send
6 the program catalog to this individual?

7 A. Did they? Did he? Yeah. Because that
8 individual, he was discussing two things with.
9 One was our training and the other was where
10 that can go with YEHSS, as well.

11 So, basically, what we were doing at
12 that point was if that person could arrange a
13 working relationship with YEHSS, then we could
14 potentially provide the training for free
15 because we would have additional what they call
16 insourcing income from our relationship with
17 YEHSS as a result, so we would have been able to
18 afford the training at no cost.

19 Q. Okay. All right. The program catalog,
20 Mr. Bump, again, it's marked here. The Bates
21 label is 1484 through 1495. Let's just talk
22 about this.

23 A. Okay.

24 Q. It is ACE's program catalog; is that



1 right?

2 A. Yes.

3 Q. And you testified that ACE would submit
4 this program catalog to prospective partners of
5 ACE?

6 A. I don't recall us ever doing that
7 except with College of DuPage. So I can't
8 really testify as if we sent it to those unnamed
9 people or not. I don't think it progressed that
10 far.

11 Q. Was the program catalog in 2013,
12 Mr. Bump, was it stored electronically at ACE?

13 A. Yes.

14 Q. Okay. Who had access to the program
15 catalog?

16 A. All of us.

17 Q. In 2013?

18 A. All of us in the program -- I mean, in
19 the company.

20 Q. All seven employees?

21 A. Uh-huh.

22 Q. Okay. Were those seven employees
23 required to sign any confidentiality agreement
24 relating to this program catalog?



1 A. I don't believe so.

2 Q. Were these seven employees, to your
3 recollection as CEO of ACE at this time, did
4 they ever sign any confidentiality agreements
5 during the course of their employment?

6 A. Not that I recall.

7 Q. How about non-disclosure agreements, do
8 you recall, Mr. Bump, in 2013, if any of those
9 ACE employees that you previously identified
10 were required to sign non-disclosure agreement?

11 A. Not that I recall.

12 Q. Do you recall in 2013, Mr. Bump,
13 whether ACE notified -- whether you notified
14 ACE's employees that the program catalog was
15 confidential to ACE?

16 A. No.

17 Q. Before these seven employees are able
18 to access the program catalog electronically,
19 are they required to enter some sort of password
20 to access the program catalog?

21 A. No.

22 Q. Are there any electronic restrictions
23 relating to the accessibility of this program
24 catalog on the ACE email -- or excuse me, ACE



1 electronically system?

2 A. No, people that would have access to
3 it, which was everybody, needed to communicate
4 with potential students what the program was.

5 Q. So potential students would receive
6 this program catalog?

7 A. Right.

8 Q. Could potential students go online in
9 2013 and obtain the program catalog on their
10 own?

11 A. I don't believe so. Currently they
12 can't. I don't recall if there was online
13 access. I don't believe so.

14 Q. How would a prospective student obtain
15 the program catalog?

16 A. By speaking to one of our salespeople.

17 Q. One of the --

18 A. That would communicate with prospective
19 students.

20 Q. And then the ACE employee who
21 communicated with the prospective student would
22 then submit or email then the program catalog?

23 A. Yes.

24 Q. Do you recall if there was any



1 procedure in place within ACE at the time of
2 that email communication, the ACE employee
3 explained to the prospective student that the
4 information was considered confidential to ACE?

5 A. Not that I recall. No.

6 Q. Who at ACE would know the answer to
7 that previous question, Mr. Bump?

8 A. I believe I know. There was no
9 procedure in place that I am aware of that --
10 where we informed them that was confidential
11 material.

12 Q. Are there --

13 A. I don't believe any colleges do that.

14 Q. In 2013, Mr. Bump, do you recall if ACE
15 kept, maintained hard copies of this program
16 catalog at its offices?

17 A. For distribution?

18 Q. Yes.

19 A. We kept it because it was part of our
20 accrediting process. So we have it in that
21 format.

22 Q. Do you recall where those hard copies
23 were located, Mr. Bump, in 2013?

24 A. In my office.



1 Q. And was it kept in a file drawer?

2 A. It was in a binder, a three-ring
3 binder, like a bookshelf.

4 Q. Sure. Where was the three-ring binder
5 kept in your office, Mr. Bump?

6 A. On a bookshelf.

7 Q. On a bookshelf.

8 Who would know, Mr. Bump, going back to
9 these two colleges, who would be the individual
10 most knowledgeable at ACE on the issue of what
11 information, what materials ACE provided these
12 two colleges in connection with perhaps entering
13 into a proposed consortium for the ACE surgical
14 assistant program?

15 A. Keith.

16 Q. Keith Bump?

17 A. Yes.

18 Q. As you sit here today, Mr. Bump, just
19 so I understand your testimony correctly, so I'm
20 clear, you do not have any personal knowledge as
21 to what information ACE transmitted to these two
22 colleges in connection with the prospective
23 consortium?

24 A. That is correct. And I just know this.



1 That I can't even imagine that any more than the
2 program catalog would have been given to them at
3 the stage we were at.

4 Q. Because those --

5 A. That might not have been given to them
6 either.

7 Q. And why? What do you mean by at this
8 stage?

9 A. At just the very initial probe of
10 whether they'd be interested or not.

11 Q. Okay. Were you made aware during these
12 preliminary discussions with these two colleges,
13 were you ever made aware, either by the college
14 or by Keith, as to what the internal approval
15 process was for these two colleges?

16 A. My knowledge of that is a little
17 blurry, but I know it never had gotten to like
18 the board stage. I know it had to get through a
19 board approval process before they could go any
20 further.

21 Q. Did you know whether or not with these
22 two colleges, a particular state that these
23 colleges were in had to actually approve the
24 programs?



1 A. What state they were?

2 Q. Yes.

3 A. I know there was one in, I believe,
4 Virginia where Keith lives, in that area. And
5 that's probably how he came to be aware of them.
6 The other one seems to me as though it was more
7 of like a national organization.

8 Q. Okay.

9 A. Like a Concord or something like that
10 where they have colleges in different states.

11 Q. Did you review -- I know I asked you
12 about the YEHSS email communications. Did you
13 review any other documents that were produced by
14 YEHSS in this case?

15 A. In this case of College of DuPage or
16 the other two colleges you're talking about?

17 Q. This litigation.

18 A. I think I -- my impression is that I
19 got to review them all.

20 Q. Okay. All right. Let's -- I can --
21 what time is it?

22 MR. DAVIS: 11:53.

23 BY MR. ROCHE:

24 Q. All right. Let me ask some questions



1 about ACE's relationship with YEHSS and then
2 maybe break for lunch, or do you want to keep
3 going?

4 MR. DAVIS: Off the record.

5 (Whereupon, a discussion was had
6 off the record.)

7 BY MR. ROCHE:

8 Q. Back on the record.

9 Mr. Bump, did there come a point in
10 time, to the best of your recollection, where
11 ACE was considering a merger with YEHSS?

12 A. We -- actually, I was proposing a
13 possible merger which never really came about.

14 Q. Do you recall when those discussions
15 occurred, what year?

16 A. Not really.

17 Q. In November of 2013, which is about the
18 time frame when ACE first started communicating
19 with COD, do you recall, Mr. Bump, what the
20 relationship, the business relationship between
21 YEHSS and ACE was?

22 A. Yes. It was we were basically
23 affiliated, is the term I would use. So part of
24 Keith's role was to locate hospitals that might



1 be able to utilize the services that YEHSS
2 offered in conjunction with our training.

3 **Q. What services did YEHSS offer?**

4 A. The insourcing service. That was the
5 one when they were pushing. They actually did,
6 you know, like traditional agency stuff, like
7 the agency that I joined a long time ago. But
8 insourcing was kind of a new concept where it
9 basically turned the hospital's employees into
10 like Kelly Temporary Agency employees where
11 basically YEHSS would rent that employee from
12 them to perform surgical assisting and then bill
13 the insurance company for that service.

14 **Q. YEHSS would?**

15 A. Then they would pay the hospital for
16 that employee.

17 **Q. What was ACE's role in the insourcing
18 concept?**

19 A. We would just locate hospitals that
20 might be interested in that and offer it. If it
21 looked like it would be profitable more long
22 term, then we would offer the training for free
23 to that hospital in order to facilitate that
24 training, that contract with YEHSS.



1 Q. To your knowledge, Keith Bump was
2 contacting hospitals on behalf of ACE to try and
3 see if there was any avenue type from the
4 hospital on this insourcing idea?

5 A. That's how he would generate leads, in
6 other words, just call hospitals like that.
7 Hospitals called us for training. And then if
8 he saw an in there for being able to work with
9 YEHSS on that, then he would introduce that
10 prospect to them.

11 Q. And again, I'm talking about the
12 insourcing idea affiliation, I think is the way
13 you described it. How would ACE be compensated
14 under this insourcing model?

15 A. So they would receive receipts from
16 insurance companies for the service that they
17 were provided.

18 Q. Who is they?

19 A. YEHSS. And they would also pay the
20 hospital for the use of their employee in that
21 process. And then the profits from that would
22 be shared with us.

23 Q. Do you remember the percentage basis of
24 the --



1 A. It is 20 percent of whatever the
2 profits were.

3 Q. ACE would receive 20 percent of the
4 profits?

5 A. Uh-huh. None of that ever came to
6 fruition. We just did a lot of work for
7 nothing.

8 Q. That was going to be my next question.
9 How many -- was there ever an instance in which
10 a hospital contacted ACE and ACE brought in
11 YEHSS under this insourcing rubric where a
12 profit was generated that ACE received?

13 A. No.

14 Q. Not one?

15 A. No.

16 Q. Over a period of time, how many -- how
17 long did this insourcing affiliation go on
18 between ACE and YEHSS?

19 A. It was over a year.

20 MR. ROCHE: Okay. That's all I have on
21 YEHSS for now.

22 (Whereupon, a lunch break was
23 taken.)
24



1 BY MR. ROCHE:

2 Q. Mr. Bump, why don't you grab Exhibit 5
3 which is the -- there you go -- the program
4 catalog. Just so I understand your testimony
5 correctly, this exhibit includes both the
6 program catalog and also the master curriculum.
7 If you turn to ACE1013. Do you see that?

8 A. Yes.

9 Q. Mr. Bump?
10 When you testified earlier about how
11 prospective students in response to
12 communications with ACE employees would receive
13 the program catalog, would the prospective
14 students also receive the master curriculum?

15 A. No.

16 Q. Only what is called the program
17 catalog?

18 A. Yes.

19 Q. Okay. Did there ever come a point in
20 time when a student who enrolled at ACE would
21 receive the master curriculum?

22 A. No. That was basically put together
23 for accreditation purposes.

24 Q. With what bodies, accreditation bodies?



1 A. With CAAHEP. The ABSA also received a
2 version, but not like an official master
3 curriculum.

4 Q. All right. Let's focus on the program
5 catalog only.

6 Can you identify, Mr. Bump, by Bates
7 label ACE's program catalog?

8 A. ACE1001.

9 Q. And where does the program catalog end
10 in terms of Bates labels? How many pages is the
11 program catalog?

12 A. It ends on 1012.

13 Q. Okay. Let's turn to ACE1003. In the
14 introduction section, Mr. Bump, do you see at
15 the end it says R. Bump, secretary?

16 A. Yes.

17 Q. Who is that?

18 A. Ramona.

19 Q. Your wife?

20 A. Yes.

21 Q. In the faculty section, it lists you
22 and Dr. Arthur Heller. My question is: Who is
23 Dr. Arthur Heller?

24 A. He was a previous medical director of



1 the program.

2 Q. Was he a medical director of ACE in
3 2013?

4 A. Yes.

5 Q. And when did Dr. Heller's relationship
6 with ACE end?

7 A. I'm not exactly sure of the date. It
8 was a couple of years ago. Two or three years
9 ago.

10 Q. And why did Dr. Heller's relationship
11 with ACE end?

12 A. He is retired.

13 Q. Is Dr. Heller, does he have any
14 relationship with the ABSA?

15 A. No.

16 Q. And what were Dr. Heller's duties and
17 responsibilities during his affiliation or
18 relationship with ACE?

19 A. He was mainly, when we first started
20 working with him, he was required to review the
21 curriculum for validity and usefulness to the
22 industry. And from there on, he basically was
23 there for advice any time I needed him. And he
24 would participate in advisory committee



1 activities.

2 Q. ACE had an advisory committee during
3 this time period?

4 A. Uh-huh.

5 Q. Who else was on it? Or strike that.
6 Who was on the advisory --

7 A. Let's put it this way.

8 Q. -- committee.

9 A. During what time are you talking about?

10 Q. 2013.

11 A. No. The advisory committee was in
12 effect before and during CAAHEP accreditation.

13 Q. 2009 through 2012?

14 A. Uh-huh.

15 Q. And who was on that committee?

16 A. He, I, and a number of surgeons from
17 around the country.

18 Q. Okay. I direct your attention to
19 program offered on page 1003 in the middle of
20 the page.

21 A. Program objectives?

22 Q. Right under faculty, see it says
23 program offered?

24 A. Yes.



1 Q. Okay. It indicates that there is
2 essentially three categories here of the ACE
3 surgical assistant program, the first one being
4 the SurgiNet, the second one the surgical skill
5 lab, and the third one SurgiNet clinical
6 internship program. Do you see that?

7 A. Yes.

8 Q. And then there is clock hours and then
9 a column for semester credits. Do you see that?

10 A. Yes.

11 Q. What is the difference between clock
12 hours and semester credits?

13 A. The clock hours would be the number of
14 hours a student was anticipated to participate
15 in that, the regular hours, number of hours that
16 it would take.

17 Q. Okay. And then semester credits, is
18 that the same as credit hours, you know, if ACE
19 were an academic institution?

20 A. Yeah. I mean, like college credit
21 hours?

22 Q. Yes.

23 A. Yes. There is different formulas
24 depending on what kind of training there is. So



1 there is one formula for like classroom
2 training, there is another formula for lab
3 training, and there is another formula for
4 experience, like in a clinical experience. So
5 they don't all count the same for semester
6 credits.

7 Q. And that's why?

8 A. So like there is 400 hours on the
9 clinical internship, and that only came out to
10 be 8.8. And just a little bit more than that,
11 600 was 40, as far as the distance learning is
12 concerned.

13 Q. If you look down this page at
14 occupational objective. Do you see that
15 paragraph?

16 A. Yes.

17 Q. The last sentence. I just have a
18 couple questions about the last sentence.

19 A. Uh-huh.

20 Q. So if you could read that sentence for
21 a second.

22 A. Okay. I'm ready.

23 Q. Does this sentence mean that a student
24 has to go through the ACE program to be eligible



1 to sit for the national certifying exam to
2 become an A S-C?

3 A. Well, any approved program by the ABSA.
4 It wouldn't be just ACE.

5 Q. If you turn to the next page, ACE1004.
6 Kind of the top enhanced access. Is this the
7 fee that you were describing in which an --
8 earlier in which a student could pay \$695 to
9 have access to all nine online modules?

10 A. Yes.

11 Q. At once?

12 For ACE's -- for the program, for the
13 only portion of the program, was the enrollment
14 on a monthly basis or a semester basis?

15 A. When they enrolled, it was for the
16 entire program.

17 Q. Could a student enroll for the ACE
18 program at any time throughout the calendar
19 year?

20 A. Yes.

21 Q. In 2013?

22 A. Yes.

23 Q. Okay. Has that always been the case
24 with ACE?



1 A. Yes.

2 Q. In terms of enrollment?

3 Once a student is accepted -- and we'll
4 talk about the admission standards in a minute.
5 But once a student is accepted into the ACE
6 program and enrolls, is the student required to
7 sign any sort of agreement that identifies that
8 the information the student is going to receive
9 from ACE is ACE's confidential information?

10 A. I don't believe so. There is an
11 enrollment form. I'm trying to picture where
12 that might be in the enrollment form, but I
13 can't. I don't think so. I don't think there
14 is a confidentiality clause.

15 Q. Once a student is accepted into the ACE
16 surgical assistant program and enrolls, is the
17 student required to sign any sort of agreement
18 in which he or she agrees not to disclose the
19 material he or she will receive from ACE?

20 A. No.

21 Q. Is there an online popup in which ACE
22 notifies the new student that the information he
23 or she will now have access to is confidential
24 to ACE?



1 A. No.

2 Q. Once a student enrolls in the ACE
3 surgical assistant program, does ACE in any way
4 communicate to the new student that the
5 information and materials the student will
6 receive is ACE's confidential information?

7 A. No.

8 Q. Would you agree that a student could
9 print the online material and transmit that
10 material to anyone?

11 A. Theoretically, yes.

12 Q. A student could take a screen shot with
13 his or her cell phone and transmit that
14 information, that picture to anyone?

15 A. Yes.

16 Q. So would you agree that the information
17 that can be accessed by students is not secret?

18 A. From that perspective, I'd have to
19 agree with you.

20 Q. Does a student have to complete the
21 surgery -- is it SurgiNet? Is that how you
22 pronounce it?

23 A. Yes.

24 Q. SurgiNet. Does the student have to



1 complete the SurgiNet program before taking the
2 skills lab?

3 A. No.

4 Q. The SurgiNet program is the online
5 portion of the ACE surgical assistant program;
6 is that right?

7 A. Yes.

8 Q. So a student can enroll and
9 immediately -- excuse me, a student who is
10 accepted and enrolls in the ACE surgical
11 assistant program can immediately take the
12 skills lab if he or she chooses?

13 A. Yes.

14 Q. What about the clinical portion of the
15 program? What does a student -- strike that.

16 Can a student take or start his or her
17 clinical portion of the ACE program prior to
18 completing the online portion?

19 A. Yes.

20 Q. Can a student start the -- this is
21 all -- again all these questions are in 2013 and
22 2014.

23 A. Uh-huh. Okay.

24 Q. Well, let me just make sure we get this



1 down.

2 2013 and 2014, during those two years,
3 was ACE's program as kind of set forth in the
4 program catalog, did it remain the same?

5 A. Yes.

6 Q. Okay. Could a student during this time
7 period, could a student start the clinical
8 portion of the ACE surgical assistant program
9 prior to completing the online portion?

10 A. Yes.

11 Q. Could a student during this time period
12 start the clinical portion of the surgical
13 assistant program prior to completing the skills
14 lab?

15 A. No.

16 Q. The student had to go through the
17 skills lab before he or she could start the
18 clinical portion; is that accurate?

19 A. Yes.

20 Q. To the best of your recollection,
21 Mr. Bump, did -- in 2013 and 2014, were there
22 ACE students who took the skills lab before
23 completing the online portion of the course?

24 A. Yes.



1 Q. On average, how many students would
2 you -- how many students do you recall having
3 taken the skills lab before completing the
4 online portion?

5 A. It is probably a majority. I don't
6 have official numbers or anything. It is
7 probably a majority. And the reason for that
8 is, is a lot of students enrolled because we
9 were bringing the lab to their area and became
10 interested in our program as a result of that.

11 Q. What areas -- in 2013 and 2014, what
12 geographical areas was the skills lab presented
13 by ACE?

14 A. There were areas all over the country.
15 A big source of our training during when we were
16 CAAHEP accredited was Texas. That's a big
17 majority of what we lost when we lost our CAAHEP
18 accreditation. But we also put on courses in
19 California, in Las Vegas, in Georgia, did a
20 couple here in Chicago or suburbs of Chicago,
21 and those are the big ones that we -- I can't
22 remember off the top of my head if there were
23 other areas at the time. Sometimes we would go
24 to an area if we were invited. Like if a



1 hospital wanted us to train their employees, we
2 would go to them for that.

3 Q. Do you recall, Mr. Bump, what ACE's
4 enrollment was for the calendar year of 2013?

5 A. No. My estimation would be it is
6 pretty close to what it is now. Around 90 to
7 100 a year.

8 Q. In 2014, do you recall what ACE's
9 enrollment was for that calendar year?

10 A. Not specifics. It's been pretty stable
11 over those years.

12 Q. ACE's averaged between 90 and 100
13 students from per calendar year from 2013 up to
14 the present?

15 A. From the time we lost our
16 accreditation, yes.

17 Q. And prior to the loss of the CAAHEP
18 accreditation, how many students, on average,
19 did ACE enroll?

20 A. Between 150 and 180.

21 Q. Okay. Back to ACE1005. Entrance
22 requirements. It is towards the top of the
23 page.

24 It states, I guess, in the -- after the



1 first sentence, the second sentence indicates
2 that, "applicants must provide proof of high
3 school diploma or GED equivalency or a copy of
4 diploma and official transcripts of the highest
5 level of medical education completed."

6 Is it a reasonable interpretation of
7 that sentence, Mr. Bump, a student can be
8 admitted into ACE without having a high school
9 diploma or a GED?

10 A. No, they cannot.

11 Q. They have to have a high school diploma
12 or a GED to enroll in ACE?

13 A. Yes.

14 Q. Okay. I just I was -- I'm wondering if
15 you can -- well, strike that.

16 Okay. Let's discuss the specific types
17 of medical services professionals that ACE
18 accepted. It appears that ACE accepted in 2013,
19 and again 2014 -- actually, before I ask that,
20 did the entrance requirements or admission
21 requirements for ACE change in 2013 or 2014?

22 A. No.

23 Q. They were the same admissions
24 requirements?



1 A. Uh-huh. These.

2 Q. Are those the same admission -- does
3 ACE have the same admission requirements in its
4 program today?

5 A. Yes.

6 Q. And can you identify the types of
7 medical services professionals at ACE accepted
8 that qualified for admission into the ACE
9 assistant surgical program in 2013 and 2014?

10 A. They were all the same listed here.
11 Surgical techs, whether they were on-the-job
12 trained or were trained at a college, then
13 operating room nurses with two years of
14 experience in the operating room. PAs,
15 physician's assistants, and nurse practitioners
16 and medical doctors.

17 Q. Surgical techs who either graduated
18 from a -- strike that.

19 Surgical techs could qualify and be
20 enrolled in a -- if they were either on-the-job
21 trained as a surgical tech or they went to or
22 obtained some sort of degree?

23 A. Right.

24 Q. In surgical technology?



1 A. Or certificates. It is not always a
2 degree.

3 Q. Certificates. Okay.

4 In 2013, Mr. Bump, approximately how
5 many ACE students were OR nurses?

6 A. In 2013, I don't have the enrollment
7 statistics in front of me, but my guess would be
8 maybe a tenth of our students.

9 Q. How about 2014?

10 A. The same.

11 Q. Is there any documents that you could
12 think of, Mr. Bump, that would identify by type
13 of profession the student body of ACE during
14 2013, 2014?

15 A. Like a roster that has their medical
16 background on it?

17 Q. Yes.

18 A. No.

19 Q. How about a --

20 A. You can do a query in our database to
21 find out that information, but we don't have one
22 specific document.

23 Q. Okay. You do track -- ACE does track?

24 A. Uh-huh.



1 Q. The background of its students?

2 A. Yes.

3 Q. Okay. How about on-the-job-trained
4 surgical techs, in 2013, do you recall how many
5 on the job surgical techs ACE enrolled?

6 A. Not numbers. I mean, my educated guess
7 is probably 25 percent.

8 Q. Did that percentage change in 2014 to
9 the best of your recollection?

10 A. No, no.

11 Q. How about surgical techs who obtained
12 certificates from some sort of medical
13 institution?

14 A. They were the majority.

15 Q. That was the majority?

16 A. Uh-huh.

17 Q. Approximately in 2013, what percentage
18 of ACE students were surgical techs who had
19 graduated and obtained a certificate?

20 A. Maybe 60 percent.

21 Q. 60?

22 A. I hope that all adds up to 100 percent.

23 Q. I'm not trying to trick you. I'm just
24 trying to get an understanding as to the



1 composition of the student body.

2 How about for 2014, Mr. Bump?

3 A. It would be the same.

4 Q. 60 percent?

5 A. Uh-huh.

6 Q. Nurse practitioners in 2013, to the
7 best of your recollection, what percentage of
8 the ACE student body were nurse practitioners?

9 A. It was a very small percentage. Most
10 of the PAs and NPs and MDs would only take the
11 lab. A very small percentage of them decided
12 they wanted to take the whole program, but it
13 was very small. Like I would guess maybe five
14 out of a year. Not percent. Five people would
15 take the whole program as opposed to just lab.
16 Those professionals, they can get privileges in
17 the hospital even without us. They just want to
18 be better at what they do.

19 Q. Uh-huh.

20 So I understand you correctly, five --
21 well, in 2013, ACE enrolled approximately five
22 students who were either nurse practitioners,
23 physician assistants, or MDs?

24 A. Into the full program.



1 Q. Into the full program.

2 Would that be the same to the best of
3 your recollection for 2014?

4 A. Yes.

5 Q. As well?

6 Do you recall, Mr. Bump, if ACE
7 enrolled any osteopathic doctors in 2013 into
8 its program?

9 A. No.

10 Q. Do you recall for 2014 if ACE ever
11 enrolled any?

12 A. I don't think we've ever. We would
13 enroll them. We've just never gotten that.

14 Q. What is the difference between an OR
15 nurse and a perioperative nurse?

16 A. No difference.

17 Q. It is the same?

18 A. It is new terminology.

19 Q. Okay. What's the difference between a
20 nurse practitioner and an OR nurse?

21 A. A nurse practitioner goes to school and
22 they get a master's degree or a doctorate, and
23 they can basically almost function like a doctor
24 does in their practice. So it is a very



1 advanced designation.

2 Q. Let's move on to ACE1006. Under your
3 grading system, a simple question is: In 2013
4 and 2014, was that the grading system that ACE
5 implemented for the SurgiNet?

6 A. Yes.

7 Q. Portion of the program?

8 A. Yes.

9 Q. Okay. Is the same SurgiNet
10 trademarked?

11 A. It is not a registered trademark. It
12 is TM.

13 Q. Okay. So ACE never registered with the
14 patent and trademark -- the U.S. Patent and
15 Trademark Office the particular trademark?

16 A. No.

17 Q. Okay. And I believe you -- well, no.
18 Let me ask it.

19 After a student enrolls into the ACE
20 program, does he or she receive a syllabus?

21 A. The syllabus is the document that you
22 saw in the master agreement. Syllabus outlines
23 the objectives, gives you the reading
24 assignments, all of that. That's the syllabus.



1 Q. The master curriculum?

2 A. The master curriculum is a collection
3 of all the syllabuses for the different labs --
4 I mean different portions of the program.

5 Q. Well, if you turn to ACE1020, for
6 example. Would a student who enrolls into the
7 ACE surgical assistant program receive this
8 bioscience syllabus?

9 A. Yes. They would receive it. They have
10 to log in to the backside of our website, the
11 student login portion, to receive this.

12 Q. Okay. And then would a student
13 receive -- is ACE1020 and ACE1021 the syllabus
14 for the bioscience module?

15 A. Yes.

16 Q. And if you could just go through.
17 Let's turn to ACE1022 and 1023. Is this
18 document the syllabus for the online module
19 laparoscopic surgery and microbiology?

20 A. Yes.

21 Q. ACE1024 to 1026. No. I'm sorry. 25.
22 Is this document the ACE syllabus for the online
23 module general surgery hernia repair?

24 A. Yes.



1 Q. ACE1026 to 1028, is that the online
2 module for the thoracic surgery, plastic surgery
3 and wound care syllabus?

4 A. Yes.

5 Q. ACE1029 to 1030, is this the online
6 syllabus -- strike that.

7 Is this the syllabus for the online
8 module GYN surgery, complications of surgery?

9 A. Yes.

10 Q. ACE1031 through 1033, is this the
11 syllabus for the online module microscopic tubal
12 anastomosis?

13 A. Do I have to let you suffer through
14 that?

15 Q. If you could help me.

16 A. Reanastomosis.

17 Q. Reanastomosis. Pharmacology?

18 A. And genitourinary.

19 Q. This is the syllabus for that online
20 module?

21 A. Yes.

22 Q. ACE1034 through 1036, is this the
23 syllabus for the ACE online module interpersonal
24 skills vascular anastomosis anesthesia?



1 A. Yes.

2 Q. ACE1037 to 1039, is this the syllabus
3 for the ACE online module orthopedics/legal and
4 ethical considerations?

5 A. Yes.

6 Q. ACE1040 to ACE 1041, is this the
7 syllabus for the ACE online module total joint
8 arthroplasty spinal surgery?

9 A. Yes.

10 Q. When a student -- well, before a
11 student can access the syllabi that we just went
12 over, is the student required to sign any sort
13 of agreement that notes that the syllabi and the
14 information contained within the syllabi is ACE
15 confidential information?

16 A. No.

17 Q. Once a student is accepted and enrolls
18 and has access to the online syllabi that we
19 just discussed, is the student required to sign
20 any sort of agreement in which he or she agrees
21 not to disclose that information that anyone?

22 A. No.

23 Q. Is there any online popup, Mr. Bump,
24 relating to the syllabi and when a student



1 accesses the syllabi that would require the
2 student to -- or strike that -- that notifies
3 the student that the information contained in
4 that syllabi is ACE confidential information?

5 A. No.

6 Q. Once a student enrolls in the ACE
7 surgical assistant program and thus has access
8 to the syllabi, does ACE in any way communicate
9 to that student that the information contained
10 in the syllabi is ACE's confidential
11 information?

12 A. No.

13 Q. So similar to the questioning about the
14 ACE -- about ACE's program catalog with respect
15 to the syllabi, the student would be able to
16 print the syllabi and transmit it to anyone he
17 or she wanted to; is that accurate?

18 A. Not with our permission. We don't give
19 them permission to do that, but technically they
20 have that capability.

21 Q. Does ACE notify the student that they
22 do not have permission from ACE to transmit the
23 information in the online syllabi to anyone?

24 A. No.



1 Q. A student could also take a picture on
2 his or her iPhone of the online syllabi and
3 transmit it to anyone; is that fair?

4 A. Yes.

5 Q. So would you agree that the information
6 in the syllabi is not secret?

7 A. Not secret from our students.

8 Q. Students can do whatever they want with
9 the information, the syllabi?

10 A. Yes.

11 Q. And the syllabi that we just went
12 through, ACE1020 through ACE1041, this is the
13 same information, Mr. Bump, that ACE is claiming
14 is an Ace trade secret in this instant
15 litigation?

16 A. Yes.

17 Q. Let's talk about the mechanics of
18 completing each of the modules for the SurgiNet
19 portion of the surgical assistant program.

20 Walk me through it. Tell me how it
21 works. How does a student -- so a student will
22 access an online module. How is that taught?

23 A. At the beginning of each month, the
24 module that everybody gets is opened up to any



1 student, unless they have access and they got it
2 all. But the first thing they're supposed to do
3 is take a pre-test to kind of judge where they
4 are with this information. And then they have
5 to study the references that we outline for
6 them. And then they retake another test towards
7 the end of the month.

8 Q. Okay. What happens -- is the pre-test?

9 A. Uh-huh.

10 Q. Is that pre-test graded?

11 A. Yes. But not -- it gives them a grade,
12 but we don't record that score. It is not part
13 of their GPA.

14 Q. What happens if a student passes the
15 pre-test?

16 A. They still have to take the -- go
17 through the program. That's not -- it is not a
18 challenge test.

19 Q. Is there any difference between whether
20 a student passes the pre-test or fails the
21 pre-test?

22 A. No.

23 Q. And you --

24 A. The other things that happens. Once



1 they take the pre-test, they get a download of
2 the questions that they missed so that they can
3 use that as a study guide in preparation for the
4 unit test.

5 Q. Do they get a download of the questions
6 that they answered correctly?

7 A. No.

8 Q. And are those questions, namely the
9 questions that the student answered correctly,
10 asked again on the final exam?

11 A. Not necessarily. It is pulled from a
12 test bank. Each test is pulled from a test
13 bank.

14 Q. After the student takes the pre-test,
15 you then discuss reference material. What do
16 you mean by that? What reference material are
17 you referring to?

18 A. Ask the question again.

19 Q. After the pre-test is administered, I
20 believe you testified that the next step in
21 terms of the presentment of the ACE online
22 module is reference material?

23 A. Right. So those are the textbooks
24 referred to in the syllabus.



1 Q. A student?

2 A. And they have reading assignments by
3 page number.

4 Q. Okay. And then the student -- what
5 happens after that? After the reference, after
6 the student goes through and reads the reference
7 material?

8 A. Then the -- at the last third of the
9 month, the final test is opened up to them, and
10 they can take that any time within that period
11 that they feel they're ready for it.

12 Q. Does each module consist of a video of
13 an instructor teaching the particular subject
14 matter?

15 A. No.

16 Q. Are there home -- are homework
17 assignments given during a module other than the
18 reading materials?

19 A. Other than that that is their homework
20 assignment.

21 Q. The reading material?

22 A. Uh-huh.

23 Q. At the end of the reading assignments,
24 is there a homework assignment?



1 A. No. That is the homework assignment.

2 Q. If a student has questions about the
3 reading assignment, does he or she have the
4 ability to communicate with someone at ACE?

5 A. Yes.

6 Q. And how is that done?

7 A. Either by phone or by email.

8 Q. So -- and again, these questions are
9 all about the ACE program as it existed in 2013
10 and 2014.

11 A. Right.

12 Q. During that time period, if a student
13 had a question about a particular reading
14 assignment, he or she could contact via phone an
15 ACE employee?

16 A. And if it was a question relating to
17 the reading material itself, that would have to
18 be turned over to me. I would be the only one
19 that can answer those kind of questions.

20 Q. And during this time period you were
21 available to answer those types of questions?

22 A. Yes.

23 Q. And did that ever occur, to the best of
24 your recollection, in 2013 or 2014?



1 A. It is not something that happens an
2 awful lot. It is not something that happens an
3 awful lot. Maybe in a month, you might get ten
4 calls or something like that.

5 Q. Were any quizzes given to students as
6 they proceed through the online module?

7 A. Just the quizzes that we call the unit
8 tests. The pre-test is basically a quiz, but
9 not other than that.

10 Q. What was the format -- well, did each
11 of the nine online modules have a different
12 format for the quizzes?

13 A. No.

14 Q. What was the format? Multiple choice?

15 A. Multiple choice, yeah.

16 Q. Was there an essay portion of --

17 A. No.

18 Q. For both the pre-test and tests, they
19 were all of them -- all of those tests, both the
20 pre-test and the unit tests for each of the
21 online modules were all multiple choice?

22 A. Yes. Now, I do agree that essay type
23 questions are important. We covered that
24 scenario by having them do that report the



1 essay -- not SN but RP-210.

2 Q. The research report?

3 A. Yes.

4 Q. Who grades -- in 2013 and 2014, who
5 graded the pre-tests for the online modules?

6 A. It is automatically graded by the
7 computer program the online programed.

8 Q. And in 2013, 2014, who graded the unit
9 tests for each of the online modules?

10 A. The computer.

11 Q. And in 2013, 2014, were both the
12 pre-test and unit tests for the online modules
13 provided online?

14 A. Yes.

15 Q. What happened if a student failed the
16 pre-test for an online module?

17 A. They almost all fail them. We expect
18 it.

19 Q. And what would happen?

20 A. They would be able to download that
21 study guide related to the questions that they
22 missed, and that would provide them some
23 structure to figure out what they need to
24 bolster their knowledge on.



1 Q. What study guide are you referring to?

2 A. A study guide, it is an online printout
3 based upon the questions that they missed.

4 Q. Would the study guide -- can you just
5 describe what the online printout consisted of?

6 A. It would just be a list of the
7 questions that they missed. It's not the
8 recreation of the actual test question plus the
9 multiple choice answers. So it is just the
10 question without the multiple choice answers.

11 Q. Would the study guide provide the
12 answers?

13 A. No.

14 Q. No. Would the study guide provide any
15 tips on how to answer the particular question
16 that the student got wrong?

17 A. No. It is basically a guide. If you
18 need to -- if the reading materials doesn't give
19 you all the necessary information you need to
20 answer that particular question, it would be a
21 guide for you to do research on that particular
22 question.

23 Q. That's what the study guide would?

24 A. Uh-huh.



1 Q. Oh, all right. Okay.

2 Research other than what was set forth
3 in the reading assignments?

4 A. Both that and if they didn't find
5 satisfactory answers in their reading
6 assignments, they could research it.

7 Q. And for the unit tests, what would
8 happen if a student failed the particular unit
9 test for the online module?

10 A. They had one occasion when they can
11 retake the test for free, and that's the middle
12 of the following month. And if they miss that,
13 then they can retake it any time. There is a
14 fee for it.

15 Q. Okay. And that procedure was in place,
16 both with a student who enrolled in the
17 traditional nine-month program and one who had
18 the enhanced access?

19 A. No enhanced access. You skip all of
20 that. You can retake the test whenever you
21 want.

22 Q. And would a fee be charged depending on
23 the number of times a student --

24 A. No.



1 Q. -- retook the test?

2 A. No. If they were in the mode, let me
3 just retake this test as often as I need to, to
4 pass it mode, we could pretty much tell that by
5 just observing their trend. And if that
6 happens, we just shut that off. You've got to
7 take a month and study this material before you
8 take the next test.

9 Q. Is there an online library that
10 students had access to for assistance during
11 2013, 2014?

12 A. We have an online library, but it is
13 basically all the materials that they need to
14 complete the course other than the textbooks.

15 Q. And what would that -- what did that
16 consist of?

17 A. It would have all the syllabuses on
18 there -- I'm sorry. Go ahead and finish your
19 question.

20 Q. What did the ACE online library consist
21 of in 2013 and 2014?

22 A. It would have the all of the syllabuses
23 that you needed. If there were reading
24 assignments that we generated in addition to the



1 textbook, they would be located there as well.

2 Q. Did students during this time period,
3 Mr. Bump, did they have access to discussion
4 forums online?

5 A. No.

6 Q. What about blogs, did ACE have an
7 online blog during this time period?

8 A. We had one. I don't -- I believe it
9 was up during that time period. But it wasn't
10 related to coursework, though.

11 Q. And if ACE had or if an ACE student had
12 questions about the online modules, information
13 on the online modules, you indicated that they
14 could either call ACE or there was another
15 avenue?

16 A. Email.

17 Q. An email, okay. And would that email
18 be directed to your attention?

19 A. If it was related to coursework,
20 related to the specific scientific part of the
21 coursework that other people in my organization
22 wouldn't be qualified to answer. If it was
23 related to logistics of doing the course or
24 anything like that, they could handle that.



1 Q. And were students ACE students notified
2 that if they had any questions they could
3 either -- about the actual substance of the
4 online modules, they could reach out and contact
5 ACE or send ACE an email?

6 A. I believe there is something -- I'm
7 almost certain. I'm trying to picture it in my
8 mind. There is something like that in the
9 program instructions.

10 Q. Did ACE -- in 2013 and 2014, did ACE
11 produce any You Tube videos about the surgical
12 assistant program?

13 A. In what dates?

14 Q. 2013 and 2014.

15 A. No.

16 Q. Was there a physical ACE library
17 located at its headquarters in Colorado during
18 this time period, 2013, 2014?

19 A. Yes.

20 Q. And ACE -- did ACE students have access
21 to that physical library?

22 A. They could have. Most of our students
23 are out of state.

24 Q. Can you describe the library for me?



1 A. It had all the text reference there,
2 plus additional surgical texts and medical
3 terminology texts, as well.

4 Q. Can you just give me an approximation
5 of how large this library was, how many books
6 were in the library?

7 A. Maybe 20.

8 Q. And that was located at ACE's
9 headquarters in Denver?

10 A. Yes.

11 Q. And this was during -- this library was
12 in existence in 2013 and 2014?

13 A. Yes.

14 Q. Did ACE have a student center during
15 this time period, 2013, 2014, where ACE students
16 could access it?

17 MR. DAVIS: I'm going to object to the
18 form. Student center building or student center
19 virtual or?

20 BY MR. ROCHE:

21 Q. A physical building.

22 A. No. What would they be doing in that
23 center that you're asking about? So I
24 understand the question better.



1 MR. DAVIS: Do you want to define what a
2 student center -- what students do in a student
3 center? He's never been to college. He doesn't
4 know what a student center is.

5 BY MR. ROCHE:

6 Q. In 2013, 2014, was there a physical
7 location that was owned by ACE where ACE
8 students could congregate and discuss the
9 surgical assistant program offered by ACE?

10 A. No.

11 Q. What about online in 2013, 2014, was
12 there an online forum where ACE students could
13 congregate, albeit in a virtual fashion, and
14 discuss ACE-related topics?

15 A. Not a forum. Like we had Facebook. I
16 don't know if that counts for that or not.

17 Q. Did online students -- or well, did ACE
18 students have a list of other students who were
19 taking the ACE program in 2013, 2014?

20 A. Only the students that they took the
21 lab with. So many of them did create like their
22 own network based on their attendance at the
23 lab. So they had anywhere from four or 15 other
24 people that they could have that kind of



1 relationship with.

2 Q. Did -- during this time period, 2013,
3 2014, did ACE have any sort of tutoring program
4 in place?

5 A. Only for lab participants. In other
6 words, if there was a student that couldn't get
7 it at the lab, then we arranged for a tutoring
8 situation with them, and then they had to report
9 back to us via video if they were able to
10 acquire those skills that they weren't able to
11 acquire at the lab or they could just take a lab
12 over again.

13 Q. In 2013 and 2014, aside from your --
14 well, were you an instructor for ACE?

15 A. Yes.

16 Q. Were there any other instructors at ACE
17 during this time period?

18 A. No.

19 Q. Other than calling in or sending an
20 email to ACE, was there any other method in
21 which you made yourself accessible to respond to
22 student inquiries during the online program of
23 the ACE program?

24 A. They could have come to our office.



1 But like I say, for most of our students, that
2 was impracticable other than students that live
3 in the Denver area.

4 Q. During this time period was the
5 SurgiNet program the online program that we're
6 talking about? Was it an independent study?

7 A. Could you describe that a little bit
8 more?

9 Q. Did the majority of students during
10 this time period -- let me ask it this way.

11 In 2013 and 2014, on a percentage
12 basis, how many students either contacted ACE or
13 e-mailed ACE questions they had with the online
14 portion of the ACE program?

15 A. About half of them.

16 Q. Let's discuss the surgical skill lab.

17 MR. DAVIS: I need a break.

18 MR. ROCHE: Okay.

19 (Whereupon, a short break was
20 taken.)

21 BY MR. ROCHE:

22 Q. All right. Back on the record.

23 Why don't you turn to Exhibit 1 which
24 is the Complaint in this case, Mr. Bump. And



1 just please take a look for a minute at Exhibit
2 A to that Complaint.

3 A. Which one is it?

4 MR. DAVIS: It is the Complaint.

5 BY MR. ROCHE:

6 Q. And just take a look at the first page
7 of Exhibit A. It is tabbed right there for you.

8 Do you see that you're copied on this
9 email? Do you see that, Mr. Bump?

10 A. Yes.

11 Q. Do you recall receiving this email?

12 A. Yes.

13 Q. Okay. It is an email from your
14 brother, Keith, to Karen Solt at the College of
15 DuPage, and it begins by saying, "good
16 afternoon, Karen. It was a great pleasure
17 meeting with you and Kathy yesterday to discuss
18 how well our programs would work together." Do
19 you see that sentence?

20 A. Yes.

21 Q. Okay. Were you aware of a meeting that
22 occurred between Keith and Karen on or about
23 November 20, 2013?

24 A. I recall this meeting. I wasn't there.



1 Q. Do you recall who was at that meeting?

2 A. As I recall, it was Keith and Kyle, and
3 my recollection is Kathy and Karen.

4 Q. And do you recall who told you what was
5 discussed during this meeting?

6 A. That would have been Keith.

7 Q. And what did Keith tell you?

8 A. I don't recall the specifics of the
9 conversation.

10 Q. How did ACE come to learn that College
11 of DuPage was interested in a surgical assistant
12 program?

13 A. That was something that Kyle brought to
14 our attention. And I don't know how Kyle, what
15 his connection with them was.

16 Q. Back to the November 20th meeting. Do
17 you recall if Kyle and Keith met Karen and Kathy
18 in person?

19 A. That was my understanding, yes.

20 Q. You do not recall, though, what was
21 discussed during that November 20th --

22 A. Not the particulars, no.

23 Q. Do you recall anything about what was
24 discussed during that November 20th meeting?



1 A. Not -- as far as I know, it was just to
2 see how we can proceed from this point on.

3 Q. Do you recall if Keith or Kyle
4 transmitted any ACE information about the ACE
5 surgical assistant program to Karen and Kathy at
6 this November 20th meeting?

7 A. I don't know if it was the meeting.
8 Obviously, in the email that things were sent.

9 Q. All right. And we'll get to that in a
10 second.

11 Do you recall any communication from
12 Keith Bump to you about who Karen Solt and Kathy
13 Cabai were, what their positions at COD were?

14 A. I know at some point, I found out. I
15 don't know if it was in this particular
16 situation or not.

17 Q. Do you recall when you eventually found
18 out what their respective positions at College
19 of DuPage were?

20 A. It was around this time. I don't know
21 if it was before this email or somewhat after.

22 Q. And do you remember what their
23 positions were at COD?

24 A. I know that Kathy Cabai was program



1 director and Karen Solt was her boss. That's
2 all I knew at that point.

3 Q. What was your understanding of Kathy
4 Cabai's role at COD as program director?

5 A. She is in charge of certain programs
6 that they were offering there.

7 Q. And what was your understanding of
8 Karen Solt's role as Kathy's boss at COD?

9 A. Like in kind of like a dean position,
10 not the full dean but maybe a somewhat under
11 that, like an assistant dean or something like
12 that. I don't know.

13 Q. Upon learning of Karen Solt and Kathy
14 Cabai's respective positions at COD, was it your
15 understanding that either of them had the
16 authority to enter into a contract with ACE?

17 A. Absolutely. It has been my experience
18 over many years that people at the director
19 position, not necessarily in colleges but people
20 I deal with, various hospitals and hospital
21 systems, the director, the people at director
22 level are absolutely allowed to make decisions
23 on behalf of their organizations.

24 Q. I may have asked this earlier, but has



1 ACE ever contracted with an academic institution
2 to provide the ACE surgical assistant program?

3 MR. DAVIS: Asked and answered.

4 THE WITNESS: No.

5 MR. DAVIS: You have asked it and he
6 answered it.

7 BY MR. ROCHE:

8 Q. And the answer is no?

9 A. No.

10 Q. Okay. Other than the two colleges that
11 we discussed earlier, has ACE ever attempted to
12 enter into consortiums with academic
13 institutions?

14 MR. DAVIS: Asked and answered. You
15 already answered it.

16 BY MR. ROCHE:

17 Q. You can answer it.

18 MR. DAVIS: You can answer it.

19 THE WITNESS: No.

20 BY MR. ROCHE:

21 Q. Back to the November 20th meeting
22 between the four Ks: Karen, Kathy, Kyle and
23 Keith.

24 A. I never thought about it that way.



1 Q. Do you recall, Mr. Bump, if there were
2 any discussions about entering into a
3 confidentiality agreement between ACE and the
4 College of DuPage?

5 A. I don't know at that particular
6 meeting. At some point it did come up and that
7 was all left with the lawyers forever.

8 Q. Do you remember when that -- those
9 discussions came up?

10 A. No. I would have to say the same
11 thing. I was around this time period, around
12 the time period of this email.

13 Q. Okay. Let's focus on Mr. Bump's email
14 to Ms. Solt.

15 A. This one?

16 Q. Yes.

17 The second sentence provides, "I am
18 sorry I didn't get this to you last night, but I
19 didn't get to my stopping point until after
20 midnight. I have attached the full
21 presentation, as well as the program catalog,
22 consortium agreement and the syllabus."

23 Let me show you another exhibit.
24



(Whereupon, Bump Deposition
Exhibit No. 9 was marked for
identification.)

BY MR. ROCHE:

Q. Exhibit 9. Have you seen this document
before, Mr. Bump?

A. Yes.

Q. Okay. And I direct your attention to
request number 9 which is on page 3.

A. Okay.

Q. This request sought documents -- sought
the attachments to the email attached as Exhibit
A to this complaint and the response was
ACE1001 to 1068. Do you see that?

A. Yes.

Q. Okay. If you could turn to Exhibit 4.
No. I'm sorry. Exhibit 5, which is the program
catalog and master curriculum.

Would you agree that this document,
both the program catalog and the master
curriculum, were attached as an exhibit to Keith
Bump's email on November 21st?

A. Yes.

Q. Okay. You'll notice that -- I will



1 show you another exhibit.

2 (Whereupon, Bump Deposition
3 Exhibit No. 10 was marked for
4 identification.)

5 BY MR. ROCHE:

6 Q. I will show you what's been marked as
7 Exhibit 10 to your deposition, Mr. Bump. Do you
8 recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. It is a PowerPoint presentation, I
12 think. Well, his version of PowerPoint that he
13 went over with them in this meeting is what I'm
14 assuming.

15 Q. Who is he?

16 A. Keith.

17 Q. You're referring to your answer?

18 A. Keith Bump.

19 Q. Keith Bump. And was this proposal part
20 of one of the -- strike that.

21 Was this proposal one of the
22 attachments that was sent as Exhibit A?

23 A. This? Oh, yeah. He does call it
24 proposal. This presentation is what you're



1 talking about, right?

2 Q. What has been marked as Exhibit 10,
3 yes.

4 A. Yes.

5 (Whereupon, Bump Deposition
6 Exhibit No. 11 was marked for
7 identification.)

8 BY MR. ROCHE:

9 Q. I will show you what's been marked as
10 Exhibit 11 to your deposition, Mr. Bump. Do you
11 recognize this document?

12 A. Yes.

13 Q. Is this document another one of the
14 attachments that was part of Exhibit A?

15 A. Yes.

16 Q. The Exhibit A email?

17 A. Yes.

18 Q. Does Keith -- well, did Keith Bump,
19 before he sent this email, Mr. Bump, did he
20 discuss the contents of the email that -- did he
21 discuss the contents of this email to you before
22 you sent the email?

23 A. Yes.

24 Q. Did he approve what was in this email?



1 A. Yes.

2 Q. This email contains the program catalog
3 and the syllabi.

4 A. Uh-huh.

5 Q. And this email also contains what
6 you -- what ACE claims in this litigation
7 constitutes some of its trade secrets?

8 A. Uh-huh.

9 Q. Is there anywhere in this email
10 attached as Exhibit A to the Complaint that
11 indicates that the information that Keith Bump
12 is transmitting to Ms. Solt at College of DuPage
13 is confidential to ACE?

14 A. Not in this email.

15 Q. Does Keith Bump in this email state
16 that the information he is sending as an
17 attachment is ACE's trade secret information?

18 A. No.

19 Q. After this email was sent, Mr. Bump,
20 did you contact anyone at the College of DuPage,
21 including Ms. Solt and Ms. Cabai, and notify
22 them that the attachments to this email was
23 ACE's confidential information?

24 A. No.



1 Q. Did you contact anyone at COD after
2 this email was sent and notify them that some of
3 the attachments to this email were ACE's trade
4 secrets?

5 A. No.

6 Q. Why not?

7 A. It didn't become evident to me that
8 sending that information would be -- would be
9 information that we would want to just maintain
10 between us until later on, after they started
11 using it in ways that we didn't appreciate.

12 Q. But you would agree that at the time
13 representatives of the College of DuPage
14 received these attachments on November 21st of
15 2013, they were unaware that this was what ACE
16 considered to be its trade secrets?

17 A. No. I wouldn't agree to that at all.
18 I'm answering questions related to this email.

19 Q. Okay. Would you agree, though -- well,
20 strike that.

21 Let's turn to the consortium proposal
22 which is Exhibit 10. Would you agree, Mr. Bump,
23 from reviewing this document, that this is a
24 proposal to enter into a consortium with the



1 College of DuPage?

2 A. I would agree that this is a document
3 that expresses in presentation form what a
4 consortium agreement might look like.

5 Q. Okay. Do you remember whether or
6 not -- back to this November 20th in-person
7 meeting before the -- with the four Ks. Do you
8 recall there ever being any discussion as to who
9 would teach the skills lab?

10 A. I don't know that that was a discussion
11 at that point or not. That definitely came up
12 at some time after this. And my initial thought
13 process was that we would teach it for them.
14 Later on, they wanted to propose -- repropose to
15 us that Kathy could teach that lab for them if
16 we taught her how.

17 Q. If you could turn to, in that proposal,
18 ACE1066, the last bullet point. Actually, below
19 that. The last portion of that, surgical
20 assistance makes 75 to \$200,000 per year. Do
21 you see that?

22 A. Yes.

23 Q. And do you know where that information
24 came from?



1 A. It originally came from the CAAHEP
2 website. They've since taken that down. I
3 think maybe in the last year or so.

4 Q. At the time of this proposal was sent,
5 ACE was not accredited or certified with CAAHEP?

6 A. No, we still had access to their
7 website and things that they were stating
8 regarding income. They've now taken the
9 substance that that's not their place to state
10 what income would be.

11 Q. Was -- I'm sorry. I don't want to
12 argue with you, but that wasn't my question. My
13 question simply was at the time this proposal
14 was sent, was ACE certified with CAAHEP?

15 A. No.

16 Q. If you could turn to ACE1067. Notice
17 the middle, towards the end, under the salary
18 representation, it also indicates, ACE has
19 partnerships with many hospitals in the State of
20 Illinois. Do you see that?

21 A. Yes.

22 Q. Simple question. What hospitals did
23 ACE have partnerships with in 2013?

24 A. Any hospital that we were training one



1 of their people in, we have clinical affiliation
2 agreements with so they can do their clinicals
3 there.

4 Q. And ACE had those affiliations with
5 hospitals in Illinois?

6 A. Yes.

7 Q. At this time?

8 A. Yes.

9 Q. Do you remember which hospitals?

10 A. No. No.

11 Q. All right.

12 A. We have affiliations with over 300
13 hospitals around the country. So I don't
14 remember them all.

15 (Whereupon, Bump Deposition

16 Exhibit No. 12 was marked for
17 identification.)

18 BY MR. ROCHE:

19 Q. I will show you what's been marked as
20 Exhibit 12 to your dep -- deposition. I just
21 want to ask you a couple questions about the
22 middle email on this ACE0001, the email from
23 Kathy Cabai to Keith Bump. Her last question in
24 this, it says, "can you please tell me what the



1 credentials are for the folks teaching the
2 online course portions. "

3 And here's my question: Are you aware,
4 Mr. Bump, if Keith Bump or Kyle Black told
5 either Kathy Cabai or Karen Solt a teacher would
6 be teaching the online portion of the ACE
7 program?

8 A. I don't understand the question.

9 Q. Do you know if Keith Bump or Kyle told
10 Kathy Cabai that a teacher would be teaching the
11 online module of the ACE surgical assistant
12 program?

13 A. As compared to what? I mean -- you
14 mean like get on a website with them and give
15 them lectures and stuff? No, they wouldn't have
16 told her that.

17 Q. Okay.

18 (Whereupon, Bump Deposition

19 Exhibit No. 13 was marked for
20 identification.)

21 BY MR. ROCHE:

22 Q. Why would they have not told her that,
23 Mr. Bump?

24 A. Because that's not what we were doing.



1 And your question is subjective. One person
2 might think, well, teaching online like we do,
3 yeah, teachers teaching that. Another might say
4 well, no, they're not. They're not giving
5 lecture and such in a classroom.

6 Q. Next exhibit, No. 13. This is a
7 series -- it is an email thread discussing
8 trying to get the certain individuals between
9 ACE and COD together for a Skype conference?

10 A. Uh-huh.

11 Q. And I'm just using the dates as a point
12 of reference. My understanding is a Skype
13 conference never occurred but a telephone
14 conference occurred in the early part of
15 December of 2013. My question is: Do you
16 remember participating in a telephonic
17 conversation with representatives of COD?

18 A. Yes.

19 Q. And I'm not trying to trick you. I'm
20 just trying to see if you recall the actual date
21 of that telephonic conversation?

22 A. No.

23 Q. Do you recall what was discussed during
24 that conversation?



1 A. The big part of that discussion was
2 would we be willing to engage with Blackboard.

3 Q. We being ACE?

4 A. Yes.

5 Q. Who was on the telephone conference
6 call to the best of your recollection? Who
7 participated?

8 A. Karen, Kathy, somebody from their IT
9 department, and I think the dean might have been
10 there, at least for part of it.

11 Q. Jeanne Carthy. Do you recall?

12 A. That doesn't sound familiar.

13 Q. It does not?

14 A. No.

15 Q. Who was present or -- well, aside from
16 the individuals that you just identified and
17 yourself, was anyone else present for the
18 telephonic conference call?

19 A. I think Keith was.

20 Q. Do you recall if Kyle Black
21 participated in this conference call?

22 A. I don't recall.

23 Q. Do you recall how long this telephonic
24 conference lasted?



1 A. Half an hour, maybe.

2 Q. Was this your first communication with
3 representatives at the College of DuPage, direct
4 communication?

5 A. Yeah. Direct. Yeah.

6 Q. During this conversation do you recall
7 if Kathy Cabai told you what her position was at
8 the College of DuPage?

9 A. I think everybody introduced themselves
10 and what they did at that meeting.

11 Q. Do you recall if Tom Cameron was?

12 A. That sounds familiar.

13 Q. Participated?

14 A. Yes.

15 Q. On this conference call?

16 A. Yes. I don't remember who he is
17 exactly, but I'm pretty sure Tom Cameron was
18 there.

19 Q. With respect to the dealing with
20 Blackboard issue that you discussed, what
21 exactly do you recall the conversation about
22 dealing with Blackboard was, what it involved?

23 A. The conversation had to do with, first
24 of all, we expressed that we had a custom made



1 student interface with our school, but that they
2 would rather utilize the one that their students
3 were used to and kind of to maintain their
4 standards whenever they meant when they said
5 that. They hadn't seen our customized website.

6 Q. Aside from the issue surrounding
7 Blackboard, do you recall any other topics of
8 discussion during this conference call?

9 A. That seemed to be the big one. How
10 were we going to be able to employ that service
11 or not and the idea that when their students
12 went there, they wanted to see pretty much the
13 same thing as when they -- when their own
14 students utilized their online services.

15 Q. During this telephone call, Mr. Bump,
16 did you communicate to anyone at the College of
17 DuPage that the program catalog and master
18 curriculum that had been previously been sent to
19 the College of DuPage was ACE's confidential
20 information?

21 A. Not that I recall.

22 Q. Do you recall Keith communicating
23 during this telephone call that the program
24 catalog and master curriculum were ACE's



1 confidential information?

2 A. Not that I recall.

3 Q. Were the terms of the consortium
4 agreement, which is Exhibit 11, were the terms
5 set forth in that agreement discussed during
6 this conference call?

7 A. Oh, at this meeting? I don't believe
8 so.

9 Q. During this telephonic conference call,
10 did ACE make an offer?

11 A. No, I believe that before then, the
12 offer was already made in the proposal that we
13 went over, or at least the beginnings of the
14 offer.

15 Q. What do you mean by beginnings of the
16 offer?

17 A. Because most offers, you put something
18 out there and it is negotiated back and forth
19 and you end up with a final offer.

20 Q. During this telephone conversation were
21 any of the terms -- and we can go through this
22 proposal, were any of the terms discussed in the
23 consortium proposal discussed?

24 A. No.



1 Q. Was there any discussion about the
2 proposed cost of the surgical assistant program?

3 MR. DAVIS: Objection. If you asked
4 about the terms, the cost would be one of the
5 terms. So he's already answered that question.
6 BY MR. ROCHE:

7 Q. You can answer.

8 A. No.

9 Q. Do you recall during this telephone
10 conversation, Mr. Bump, if the College of DuPage
11 issued its own offer to have the surgical
12 assistant consortium?

13 A. No.

14 Q. Do you recall during this telephone
15 conversation if anyone at COD told you or Keith
16 that they accepted the terms set forth in the
17 consortium proposal?

18 A. No.

19 Q. Do you recall during this telephone
20 conversation if there was any discussion on the
21 College of DuPage approval process for the
22 surgical assistant program?

23 A. I mean, we went through that
24 discussion. I don't know whether it was at that



1 meeting or some other meeting.

2 Q. Okay. Do you remember when that
3 discussion occurred?

4 A. No.

5 Q. Was that discussion over the phone?

6 A. It feels like we had discussion
7 somehow, either during this meeting or on the
8 phone, as to the fact that they would have to
9 submit it to the state and the state would have
10 to approve it and the curriculum had to be
11 modified in format, not in content, in order to
12 get through the state approval process.

13 Q. Do you remember who communicated that
14 information to you?

15 A. Yeah. That would have been Kathy.

16 Q. Kathy Cabai?

17 A. Uh-huh.

18 Q. Was anyone else present when Kathy
19 communicated this to you?

20 A. Not that I recall. Plenty of emails
21 related to that subject, though.

22 Q. And we'll get to those.

23 During this conference call, Mr. Bump,
24 do you recall if you or Keith offered to provide



1 online access to COD to its SurgiNet program?

2 A. No.

3 Q. No, you don't recall?

4 A. No, I don't recall.

5 Q. That discussion?

6 A. No.

7 Q. Do you recall how the conversation
8 ended?

9 A. Amicably. They just went through a
10 list of things they wanted to talk about and
11 everybody agreed that the meeting was over.

12 Q. Do you recall if any next steps were
13 discussed in terms of moving forward with the
14 proposed consortium?

15 A. Yeah. The next steps had to do with us
16 contacting Blackboard and making arrangements in
17 line with our discussions.

18 Q. Do you remember -- do you recall any
19 discussions between this conference call that
20 we've discussed and December 9th, 2013, between
21 ACE and the College of DuPage?

22 A. This discussion was November the 20th,
23 right? And you're saying if anything transpired
24 between that date and when? December 9th?



1 Q. No. The telephone conference we just
2 discussed.

3 A. Uh-huh.

4 Q. Did that occur after November 21st,
5 2013, to the best of your recollection?

6 A. The one where we talked about the state
7 approval process?

8 Q. The one that -- no. The one in which
9 Blackboard was discussed.

10 A. That was at that meeting.

11 Q. That was at the November 21st meeting?

12 A. Oh. We're talking -- I'm sorry. When
13 was the meeting we were talking about? The
14 Skype meeting is what you're talking about?

15 Q. Yes.

16 A. Okay. The conversations about
17 Blackboard were at the Skype meeting.

18 Q. Right. And did that Skype meeting
19 occur after November 21st, the email attached as
20 Exhibit A to the Complaint?

21 A. My recollection is it did occur after
22 that.

23 Q. It did?

24 A. Yes.



1 Q. I will show you another exhibit.

2 (Whereupon, Bump Deposition
3 Exhibit No. 14 was marked for
4 identification.)

5 BY MR. ROCHE:

6 Q. I will show you what's been marked as
7 Exhibit 14 to your deposition, Mr. Bump. Do you
8 recall receiving this email?

9 A. Yes.

10 Q. You testified earlier that -- well,
11 let's go back. Exhibit 3, the interrogatory
12 answers. Do you see answer to number 7 which is
13 on page 2? It says, "state the date of the
14 contract between ACE and COD." The answer is
15 "December 9, 2013."

16 A. Okay.

17 Q. If you could go back to the most recent
18 exhibit, this email thread, on the first part of
19 the thread or the last part is from Karen Solt
20 to Keith Bump. It is at the top of ACE0550. It
21 provides, "good morning, Keith. I think our
22 discussion was a great one and we are at this
23 point ready to move forward on our part."

24 Do you consider the date of contract of



1 December 9th, 2013 to be that date because of
2 the statement issued by Ms. Solt in this email?

3 A. That's what I would put it. And
4 everything that occurred thereafter is
5 consistent with that.

6 Q. What were the terms of the contract
7 that the College of DuPage accepted on December
8 9, 2013?

9 A. Pretty much the same terms as were in
10 the written contract that we had.

11 Q. You testified earlier that you do not
12 recall if the terms of the written proposal
13 consortium agreement were discussed during the
14 Skype conference?

15 A. Correct.

16 Q. Did you have any other discussions
17 prior to December 9, 2013 with representatives
18 of the College of DuPage about the terms in the
19 written contract?

20 A. No. The terms of the written contract,
21 it was in their possession and then added to
22 that the statement that we're moving forward.

23 Q. And could you take a look at the next
24 sentence after that? It says, "that consists of



1 putting the curriculum through our college
2 process and then on to the state's approval
3 system. "

4 A. Uh- huh.

5 Q. Were you aware, Mr. Bump, at this time
6 that the College of DuPage needed to obtain
7 additional approval to provide the surgical
8 assistant program as of December 9th, 2013?

9 A. Yes. Yes.

10 Q. Was it your understanding at this time
11 if the College of DuPage did not obtain state
12 approval, that it could not provide the surgical
13 assistant program?

14 A. That's a given, yes.

15 Q. Was it also your understanding that if
16 the College of DuPage did not obtain internal
17 approval among the college, that it would be
18 unable to provide the surgical assistant program
19 as contemplated in the consortium agreement?

20 A. There was internal approval within the
21 college.

22 Q. Right. But was it your understanding
23 that absent internal approval, the College of
24 DuPage would not be able to enter into a



1 consortium with ACE?

2 A. I don't understand the question. I
3 said there was internal approval, and so the
4 question, if they didn't, seems irrelevant to
5 me.

6 Q. Are you aware of any discussions about
7 the consortium agreement that was sent to the
8 college on November 21, 2013 between Keith Bump
9 and the College of DuPage?

10 A. Written discussions or like over the
11 phone?

12 Q. Either.

13 A. And what dates?

14 Q. Before December 9th, 2013. Do you
15 recall if Keith Bump had any communications with
16 the College of DuPage about the terms of the
17 consortium agreement prior to December 9th,
18 2013?

19 A. I remember that there were additional
20 conversations relating to reimbursement for the
21 program. So I believe that in one of these
22 exhibits, it -- the exhibit about the consortium
23 agreement here, it shows that reimbursements to
24 ACE would be in the amount of 43.80. And so



1 this is the contract that we submitted to them
2 prior to finding out that Kathy Cabai was going
3 to be teaching the course itself, instead of
4 relying on us to teach it. And so we discussed
5 another -- another amount that's reduced from
6 this amount. I believe it was 3,280 or
7 something.

8 Is it all right to take this?

9 MR. ROCHE: Yeah. Of course. Take a
10 break.

11 (Whereupon, a short break was
12 taken.)

13 (Whereupon, the record was read
14 as requested.)

15 BY MR. ROCHE:

16 Q. Were you ever made aware, Mr. Bump,
17 that -- well, strike that.

18 Did the College of DuPage ever sign the
19 consortium agreement stamped ACE1059 to 1062 and
20 identified as exhibit -- I don't remember the
21 exhibit number for the consortium. The number.
22 Exhibit 11 to your deposition. Do you remember
23 if anyone from the College of DuPage ever signed
24 that?



1 A. No. If they had signed it, it wouldn't
2 have been this one either. It would have been
3 the one with new pricing structure in it.

4 Q. Did the one with the new pricing
5 structure contain other terms that were
6 different from what's in front of you as
7 Exhibit 11?

8 A. No.

9 Q. Did anyone from ACE ever sign what's
10 marked as Exhibit 11?

11 A. I signed it. I sent it off for them,
12 and then it got stuck in the legal department.
13 But in the meantime, we proceeded as though
14 there were an agreement.

15 Q. Go ahead.

16 A. And everything that proceeded from
17 there was exactly as though we had an agreement
18 to proceed.

19 Q. Is your signature on Exhibit 11?

20 A. I think so. Let me check. No. I
21 thought I saw one, though, where my signature
22 was. Where did the -- is there another place,
23 another exhibit where this is located?

24 Q. Yes.



1 MR. DAVIS: It is not this one. It is
2 later.

3 MR. ROCHE: You're right. I'm sorry.

4 THE WITNESS: It is not in here
5 somewhere.

6 MR. DAVIS: It is not.

7 MR. ROCHE: No.

8 BY MR. ROCHE:

9 Q. Okay. Let's move on.

10 (Whereupon, Bump Deposition
11 Exhibit No. 15 was marked for
12 identification.)

13 BY MR. ROCHE:

14 Q. I will show you what's been marked as
15 Exhibit 15 to your deposition, Mr. Bump.

16 The question is: Is the consortium
17 agreement appended as an attachment to Exhibit
18 15 the same consortium agreement that was sent
19 to the College of DuPage and identified as
20 Exhibit 11?

21 A. It looks like it. I see the -- yes.

22 Q. And this exhibit, Exhibit 15, the first
23 page is an email from you to Kyle Black at YEHSS
24 in which it states, "hi, Kyle. Here is a copy



1 of our consortium contract so you'll know what
2 we are going after and what a commission might
3 look like. I'm open to suggestions. Thanks.
4 And I enjoyed our discussion today." Do you see
5 that?

6 A. Yes.

7 Q. Do you also see the title of the
8 attachment, what it is called on the first page?

9 A. Under subject?

10 Q. Do you see where it states consortium
11 agreement template?

12 A. Oh, yes. Yes.

13 Q. Do you see that?

14 A. Yes.

15 Q. Was the contract a template of what a
16 consortium agreement would look like?

17 A. Yes.

18 Q. Okay.

19 A. With details to be negotiable.

20 (Whereupon, Bump Deposition

21 Exhibit No. 16 was marked for
22 identification.)

23 BY MR. ROCHE:

24 Q. I will show you what's been marked as



1 Exhibit 16.

2 Do you recall receiving this email,
3 Mr. Bump?

4 A. Yes.

5 Q. Do you notice at the bottom of the
6 first page, ACE 0544, it is an email from Tom
7 Cameron to Kyle Black, provides, "Karen, don't
8 forget to find out what learning management
9 system they use. I'm almost certain it will
10 have to be Blackboard or BB."

11 A. Yes.

12 Q. Okay. Do you see that?

13 A. Yes.

14 Q. You testified earlier that the
15 Blackboard was comprised a majority of the
16 telephonic conversation that you had initially
17 with ACE?

18 A. That's my recollection.

19 Q. Was an agreement ever reached during
20 that conversation as to what learning management
21 system would be utilized for this consortium?

22 A. The Blackboard.
23
24



(Whereupon, Bump Deposition
Exhibit No. 17 was marked for
identification.)

BY MR. ROCHE:

Q. I will show you what's been marked as
Exhibit 17. This is another email thread.

Do you recall being or reviewing this
email thread?

A. The entire thread or just the top part?

Q. You know what? That was a bad
question.

Let's look at the bottom of the first
page, ACE 0421. It is an email from you to
Karen Solt. Do you see that?

A. Yes.

Q. Okay. My question -- take a look, read
that email, but my question is: Do you remember
sending that email to Karen?

A. Yes.

Q. Okay. In this email, you state that it
was your understanding during the conference
call you had, that ACE would be utilizing or
this email -- strike that.

In this email, you seem to indicate



1 that it was your or you state that it was your
2 understanding that the program would be run from
3 your system?

4 A. Yeah. Well, in the -- in the Skype
5 conversation that we had, Blackboard was the
6 major part of the discussion. There weren't
7 decisions made around that discussion until
8 later.

9 Q. Oh, all right. I misunderstood your
10 testimony. Ultimately, did ACE agree to utilize
11 the Blackboard system as the learning management
12 system for the consortium?

13 A. Yes, yes. And it happened some time
14 after receiving these emails about how important
15 that was to them.

16 (Whereupon, Bump Deposition
17 Exhibit No. 18 was marked for
18 identification.)

19 BY MR. ROCHE:

20 Q. Exhibit 18. I will show you what's
21 been marked as Exhibit 18 to your deposition,
22 Mr. Bump. My question is: Have you ever seen
23 this document before?

24 A. If I remember correctly, this is the



1 document that was produced as -- remember I said
2 they had to re-format our structure of our
3 program, our content of the program into a
4 format that would be accepted by the state. I
5 believe this is the result of that work.

6 Q. Do you recall ever receiving that
7 document in 2013 or 2014?

8 A. I don't recall.

9 Q. Do you recall ever?

10 A. I think, having seen it, I believe I
11 did see it, but I don't recall at what point.

12 Q. Okay. Let's turn to the second page of
13 this document, Bates stamped defendant's
14 production 2301. Under number 1C, related
15 occupations, it states that, the second
16 sentence, "to qualify for admission, students
17 must be a certified surgical technologist or
18 perioperative registered nurse." Do you see
19 that?

20 A. Yes.

21 Q. At this time did the ACE surgical
22 assistant program accept candidates other than
23 certified surgical techs and perioperative RNs?

24 A. Yes.



1 Q. Would you agree that limiting
2 enrollment to certified surgical technologists
3 or perioperative registered nurses would
4 decrease the ultimate enrollment in any surgical
5 assistant program?

6 A. Yes. The -- can I add something to
7 that?

8 Q. Yes.

9 A. The agreement we had with them wasn't
10 to be mutually exclusive, in other words, they
11 could accept the people that they wanted to
12 enroll in this and we could enroll the rest of
13 them in our program. Like we could still
14 continue to accept on-the-job trained techs and
15 NPs, PAs and doctors into the program while they
16 would be accepting these admissions. In other
17 words, it didn't limit us from still accepting
18 other people into our program.

19 Q. It didn't impact ACE's surgical
20 assistant program?

21 A. No. Well --

22 MR. DAVIS: Object to the form. This is
23 a COD document.
24



1 BY MR. ROCHE:

2 Q. COD limited -- COD's decision to limit
3 its program to certified surgical techs and
4 perioperative RNs did not impact ACE's ability
5 to provide ACE's program to other medical
6 services professionals?

7 A. Correct, correct.

8 Q. All right. If you could turn to
9 defendant's production number 2308. See in the
10 bottom of this page 1-C, enrollment chart. Do
11 you see that, Mr. Bump?

12 A. Yes.

13 Q. Okay. And it states that provide an
14 estimate of enrollments and completions over the
15 first three years of the program. Include
16 separate figures for each program. Do you see
17 in the first column, first row, and first
18 column, first year, 8-10?

19 A. Yes.

20 Q. Do you see the second year, second
21 column, first row, 10-12?

22 A. Yes.

23 Q. Third year, 12-15?

24 A. Yes.



1 Q. Was it -- you do remember -- I'm just
2 trying to remember if I recall correctly. But
3 you do recall reviewing this document at one
4 point in time; is that right?

5 A. Yes.

6 Q. Okay. Do you recall reviewing this
7 particular part of the Form 20?

8 A. Yes.

9 Q. Okay. And was that -- was the
10 projected enrollment figures that COD put in
11 here in the Form 20, was that consistent with
12 your understanding of what the enrollments would
13 look like under a proposed consortium with ACE?

14 A. No.

15 Q. Why not?

16 A. Well, when I saw this I just figured
17 this is the kind of projection that is needed to
18 get through the approval process with the state,
19 in other words, an underestimated amount. And
20 their projections -- we had our own perceptions
21 of what the enrollments would be like.

22 And in addition, they used certain
23 projections with us that aren't reflected in
24 this. For instance, Kathy Cabai said that upon



1 instituting this program, there are at least 200
2 past graduates of our surgical tech program that
3 have responded to a survey saying they want to
4 enroll in this program. So she's dangling this
5 200 figure in front of us.

6 Here's the other thing that we know
7 would have happened beyond this. We would have
8 been completely able to recover what we lost
9 from losing CAAHEP. In other words, our
10 enrollment, what we would have brought to the
11 table for college degree to become would have
12 been double the enrollments we were currently
13 getting because, once again, we would have the
14 imprimatur, the CAAHEP accreditation to appeal
15 to those in that market.

16 So they said here's what we can bring
17 and here's what we can -- and we said here's
18 what we can bring, and it was well beyond this
19 estimate. And I didn't see this submission to
20 the state as cancelling out the anticipation of
21 those enrollments.

22 Q. Did you ever communicate with
23 representatives at the College of DuPage -- do
24 you recall any discussions you had with



1 representatives of the College of DuPage about
2 the enrollment projections that the college put
3 in this Form 20 document?

4 A. No.

5 Q. You just indicated that Kathy Cabai
6 stated that at least 200 postgraduate surgical
7 technologists?

8 A. From her program.

9 Q. From her program indicated that they
10 would enroll in the surgical assistant program?

11 A. Yes. That was going to be like first
12 year projections, understanding they didn't come
13 through, but still.

14 Q. Did Kathy Cabai communicate that to
15 you?

16 A. And Keith. I'm not sure if Kyle was
17 there or not.

18 Q. Was it during a conversation, a
19 telephonic conversation?

20 A. I don't recall.

21 Q. Do you recall if it was communicated --

22 A. It wasn't by email. It was either
23 telephonic or in person with Keith because the
24 first time I ever met Kathy was at the lab.



1 Q. And what exactly is your recollection
2 of what Kathy Cabai represented to you?

3 MR. DAVIS: Asked and answered. She
4 said she represented that she would get 200
5 students as a result of a survey that she made.
6 BY MR. ROCHE:

7 Q. Did Kathy Cabai tell you that these 200
8 students would enroll in the surgical assistant
9 program?

10 A. Yes. And it wasn't just a guesstimate
11 on her part. She said she had done a survey or
12 something of that nature. So the first year
13 outlook was going to be 200 students plus the 75
14 or 80 we could bring along with it, because now
15 past prospects who wanted a surgical assistant
16 program that was CAAHEP accredited, we would
17 shunt those people into that program. We
18 wouldn't have to tell people no, we're not
19 CAAHEP accredited anymore and have them go
20 looking somewhere else.

21 So if they had stuck with us, it
22 wouldn't be 8 to 10. Even if the 200 didn't
23 come along, it would be at least 75 to 80
24 students more besides what they were able to



1 provide from their graduates.

2 Q. Was it ever your understanding during
3 this entire interaction with the College of
4 DuPage that the college would be providing the
5 surgical assistant program on a semester-tiered
6 basis?

7 A. I believe there was that discussion.

8 Q. Was there any communications during
9 ACE's proposed partnership with the College of
10 DuPage in which anyone at the college told ACE
11 that enrollment would be on a monthly basis?

12 A. I don't believe that there was that
13 discussion.

14 Q. Have you ever --

15 A. That all came about with our discussion
16 of what format does it have to be in to get it
17 through state approval.

18 Q. Did you ever physically visit the lab
19 that the College of DuPage has in its building?

20 A. No.

21 Q. Were there ever any representations to
22 you made by any COD representative that the
23 college could hold 200-plus students in its lab?

24 A. There weren't any discussions of that.



1 But it wouldn't be 200 students in any one lab;
2 that would have to be limited to 12 to 15
3 students per lab.

4 Q. How then was ACE -- or excuse me. How
5 then was the College of DuPage going to be able
6 to teach the lab if only 10 to 15 students could
7 participate in the lab?

8 MR. DAVIS: Objection. Calls for
9 speculation.

10 BY MR. ROCHE:

11 Q. Were there any discussions that you
12 recall with any representatives at the College
13 of DuPage about how the college would teach the
14 lab with 200 students?

15 A. No, there was no discussion around
16 that. In my mind, I calculated out if we have
17 week-long lab, how many students can you train
18 15 per lab. And so 52 times 15 is the number.
19 That's a lot more than 200.

20 Q. So was it your understanding that the
21 program between the College of DuPage and ACE,
22 the lab would be taught once a week?

23 A. Well, I'm -- I would assume that
24 whatever it takes. They're the ones that said



1 they would want to teach it. And if they were
2 overextended, then we can just shunt those
3 students into the labs I'm teaching, too.

4 Q. Do you recall any communications you
5 had with representatives of the College of
6 DuPage about how the lab would be taught?

7 A. Could you rephrase?

8 Q. Yeah. Let me rephrase. That was a bad
9 question.

10 Do you recall any communications you
11 had with representatives of the College of
12 DuPage about how often the lab would be offered
13 to students?

14 A. No. My assumption is that they can
15 take care of whatever they say they can take
16 care of.

17 Q. January 2014, do you recall what
18 happened? Do you have any personal recollection
19 of what happened with respect to the ACE and
20 College of DuPage proposed partnership?

21 A. In January of 2014?

22 Q. Uh-huh.

23 A. I don't have any specific date
24 recollections.



1 Q. Okay. You testified earlier that you
2 did not meet Kathy Cabai in person until she
3 attended the lab in Denver.

4 A. Correct.

5 Q. Did you ever meet Karen Solt
6 personally?

7 A. No.

8 Q. Did you ever meet Tom Cameron
9 personally?

10 A. No.

11 Q. Did you ever meet anyone other than
12 Kathy Cabai, who is affiliated with the College
13 of DuPage, personally?

14 A. No.

15 Q. Do you recall, in January of 2014, what
16 was going on with the Blackboard integration
17 between ACE and Blackboard?

18 A. The only thing I remember -- and it is
19 not related to date. The only thing I remember
20 is there were ongoing phone conversations, and
21 we were just waiting for, in particular, the
22 college to pull the trigger on it and say let's
23 go ahead and do this. The Blackboard.

24 Q. Did Blackboard ever approve -- well,



1 let me ask it this way.

2 Did ACE ever have to obtain approval
3 from Blackboard to utilize Blackboard's learning
4 management system?

5 A. I mean, it is just a matter of
6 purchasing it. I don't think it takes
7 Blackboard's approval. I don't think they
8 decide based upon their prospects which ones
9 they will provide it to and which ones they
10 won't.

11 Q. Did ACE ever purchase the Blackboard
12 license?

13 A. No.

14 (Whereupon, Bump Deposition
15 Exhibit No. 19 was marked for
16 identification.)

17 BY MR. ROCHE:

18 Q. I direct your attention to Exhibit
19 No. 19, Mr. Bump.

20 Do you recall receiving that email,
21 along with the attachment?

22 A. This is the attachment right here?

23 Q. Yes.

24 A. Yeah, I believe I remember this.



(Whereupon, Bump Deposition
Exhibit No. 20 was marked for
identification.)

BY MR. ROCHE:

Q. I'm showing you what's been marked as
Exhibit 20 to your deposition. It is an email
Bates labeled ACE0503.

Do you remember, Mr. Bump, sending this
email to Kyle Black on or about February 21,
2014?

A. Yeah, I remember this.

Q. Okay. Was it your understanding,
Mr. Bump, that as of February 21st or so, when
you sent this email to Mr. Black, that you would
be teaching the skills lab for the proposed
partnership?

A. That was the understanding up to this
point, or at least not up to this point but at
some time before this discussions began about
whether or not Kathy could teach the lab instead
of me.

Q. What did the contract provide as to who
would -- as to who would be teaching the lab?

A. The original contract was that I would



1 be teaching the lab.

2 Q. This email goes on to state, in the
3 second sentence, it provides, "I am a little
4 reticent about having the college teach the
5 course in any of its aspects because they may
6 want to wonder why they need us anymore at some
7 point."

8 Do you recall what you meant by that
9 statement?

10 A. Well, if they had everything that we
11 had, there may -- I mean, there may be some
12 attempt to take it rather than just to utilize
13 our services.

14 Q. Okay. Well --

15 A. And it's turned out to be true.

16 Q. Well, at this point in time, the
17 College of DuPage already had its own lab; is
18 that right? Is that your understanding?

19 A. They have a lab. They didn't have a
20 lab for surgical assistants. They had a lab
21 that they used for their surgical techs.

22 Q. What would be the difference between a
23 lab for surgical assistants and a lab for
24 surgical techs?



1 A. If you remember the difference in the
2 job description, techs are -- they have to know
3 how to set up a sterile field, how to hand
4 instruments to surgeons correctly. And if they
5 do a lab where they set up like a simulated lab
6 for what they would do in surgery, it would be
7 how to hand instruments, how to set up, how to
8 drape a patient, you know, all those various
9 things.

10 A lab for an assistant would be how you
11 do this particular kind of dissection, how you
12 do these particular kinds of ties, how you
13 ligate vessels and all those kinds of things.

14 Q. And could anyone who served in an
15 operating room in any capacity, whether as a
16 surgeon or an OR nurse, ascertain what
17 instrumentation or materials would be necessary
18 to convert a surgical tech lab into a surgical
19 assistant lab?

20 A. Well, we were basically doing that by
21 that budgetary item that we had, that was what
22 materials would you need to convert that
23 particular lab that you have into one that could
24 train assistants.



1 Q. Could an -- okay. But my question is
2 could an OR nurse or a surgeon who did not go
3 through the ACE training program, could they
4 readily determine, based on their experience and
5 perhaps online research, what instrumentation
6 and materials would be needed to conduct a mock
7 surgical assistant lab?

8 A. Surgeons may be able to put that
9 together, not a regular OR nurse.

10 Q. Any other type of medical services?

11 A. Surgeons.

12 Q. What about first assistants?

13 A. You mean like me?

14 Q. Could a first assistant -- would a
15 surgical assistant, based on your knowledge and
16 experience, be able to create a surgical
17 assistant lab without having to go through the
18 ACE training program?

19 A. Well, I mean, it wouldn't be like our
20 lab. It would be a new creation of their own.
21 And whether they could do better than I could or
22 not as good as I did, that's speculation on my
23 part.

24 Q. But could they create their own



1 surgical assistant lab, whether regardless of
2 whether it is better or worse than your lab?

3 A. I imagine they could. If they came to
4 me for help to do it, then, you know, if they
5 attended my lab, for instance, and I think they
6 went off and tried to recreate their own, that
7 could be construed as theft of property as well.

8 Q. How so?

9 A. Take my ideas.

10 Q. Are people who sign up for the ACE
11 surgical assistant lab required to sign any sort
12 of confidentiality agreement?

13 A. No. I don't think that's -- I mean, if
14 I had a lamp in my lab and they stole it from
15 me, I didn't need to get them to sign anything
16 that says you can't steal that from me.

17 Q. Is someone who signs up for the
18 surgical assistant lab provided by ACE required
19 to enter into any sort of non-disclosure
20 agreement?

21 A. No.

22 Q. Is a student who signs up for the
23 surgical assistant -- excuse me, surgical skills
24 lab notified at all that the information that is



1 going to be provided to them during that lab is
2 confidential to ACE?

3 MR. DAVIS: Asked and answered.

4 BY MR. ROCHE:

5 Q. You can answer.

6 A. I don't know where we say it, but it
7 might be in a catalog or it might be in some of
8 our other literature where we claim what we do
9 as being proprietary. That's about as close as
10 we get to that.

11 Q. There is literature that ACE
12 promulgates that states that some of its
13 information is proprietary to ACE?

14 A. I couldn't tell you right off the bat
15 where that might be. I know we've written that
16 before. And whether it is in current literature
17 or not, I can't say.

18 Q. Would you agree that the skills lab,
19 the ACE skills lab, at least in 2013 and 2014,
20 is a classroom that happens to be taught in a
21 lab?

22 A. I don't understand the question.

23 Q. Would you agree that the -- well, would
24 you agree that the information that a student



1 learns from a participating in the ACE surgical
2 skills lab in 2013 and 2014 was intended to be
3 used outside of the skills lab by that
4 particular student?

5 A. Yes.

6 MR. DAVIS: Objection. Okay.

7 BY MR. ROCHE:

8 Q. Yes?

9 MR. DAVIS: He answered yes.

10 THE WITNESS: Yes.

11 BY MR. ROCHE:

12 Q. What is it then about the skills lab
13 that makes it a trade secret in your opinion?

14 A. Well, it is not a trade secret to the
15 student. We don't expect our competitors or
16 anybody that we -- that approached us as
17 somebody who might want to do business with us
18 to then take that and use it as their own.
19 That's the way we see it as a trade secret.

20 Q. As you sit here today -- well, let me
21 ask this.

22 Have you ever attended the College of
23 DuPage's lab as part of its surgical assistant
24 program?



1 A. No.

2 Q. Have you ever seen pictures of the
3 College of DuPage's lab?

4 A. No. They said they have a lab. I
5 didn't question it. They don't have to have a
6 lab because we can set up our lab in a space.
7 Our lab is mobile, and so we could set it up.
8 We often set it up in hotel conference rooms.
9 They could do the same with any of their rooms.
10 I understand they have space.

11 (Whereupon, Bump Deposition
12 Exhibit No. 21 was marked for
13 identification.)

14 BY MR. ROCHE:

15 Q. I show you what's been marked as
16 Exhibit 21 to your deposition, Mr. Bump. These
17 are pictures of the College of DuPage's lab that
18 it has.

19 Does ACE's -- and all these questions
20 relate to the skills lab as it existed in 2014.

21 A. Uh-huh.

22 Q. During that time period, Mr. Bump, did
23 the ACE skills lab have two mock patients in
24 surgical beds as indicated in this picture?



1 A. No.

2 Q. 2424.

3 Did the ACE skills lab have the
4 lighting that -- the operating room lighting
5 that is provided in document 2424?

6 A. No.

7 Q. Can you just describe -- actually,
8 before we get into this, can you describe what
9 the skills lab, ACE's skills lab looked like?
10 Can you just give a general description?

11 A. Well, if we were teaching people how to
12 hand instruments and drape a patient and all
13 those things that surgical techs need to know,
14 we'd have something like this. That's not what
15 we're trying to teach anybody.

16 Q. What did ACE's surgical skills lab
17 physically look like?

18 A. It looked like this room without this
19 table, let's say, and there are two kinds of lab
20 days that we have. One is where you just sit at
21 a desk and learn like suturing and tying
22 techniques. And so I'd show a demonstration of
23 the technique I wanted them to learn, and I'd
24 come around to each individual table to make



1 sure they're getting it and give them some fine
2 pointers on their technique. And then the other
3 four days, how to do it, doing an actual
4 simulated surgery.

5 Now, for a simulated surgery, all you
6 need is a hole to work in and with simulated
7 organs in there. And you don't need something
8 that even looks like that, like a dummy patient.
9 You don't need special lighting or anything like
10 that.

11 So there is, basically, a box on a
12 table that has instruments on it and one person
13 standing on one side of that patient, the other
14 standing on the other side, and they interact
15 with each other as though one is a surgeon and
16 one is the assistant and we go through the whole
17 procedure.

18 Let's say we're doing a hysterectomy.
19 If you were going to do a hysterectomy on a real
20 patient, we do all those same techniques on our
21 simulated patient. And that's what this lab is
22 all about. It has nothing to do with anything
23 you're seeing here.

24 Q. Okay. Let's look at the next page



1 then, Mr. Bump.

2 A. I'm not insulting their lab or
3 anything.

4 Q. Oh, no, no.

5 A. It is nice. It is very nice.

6 Q. I'm not insulted.

7 MR. DAVIS: It is a nice lab.

8 BY MR. ROCHE:

9 Q. You're saying it is different?

10 A. It wouldn't serve our purposes.

11 Q. Okay. Let's look at the next page. Is
12 this a suture training material? Can you just
13 describe what it is?

14 A. It looks like a material where you
15 practice suturing techniques and tying
16 techniques. They have a rope similar to the one
17 we have on our simulator where you go through
18 the actual motions of tying surgical knots. And
19 then once they go all the moves and everything,
20 then we have them get out real suture and have
21 them tie on the real suture.

22 Q. Did ACE have -- during 2013 and 2014,
23 did ACE have a training instrument such as the
24 one identified?



1 A. We did. We created it ourselves,
2 though. We didn't buy it from somebody.

3 Q. How about the next picture, can you
4 just tell me what your understanding, if you
5 know, of this training item is?

6 A. This looks like it might be for some
7 kind of laparoscopic exercise.

8 Q. Did ACE, in 2013 and 2014, have this
9 training item?

10 A. Not this. We had one we created
11 ourselves.

12 Q. Something similar?

13 A. A little. I'm just familiar with some
14 of the others. This looks like it might be one.

15 Q. To expedite this line of questioning,
16 if you could, Mr. Bump, go through these
17 pictures and identify any materials or items
18 that are in these pictures that were in the
19 skills lab that ACE provided in 2013?

20 A. The exact materials or something we did
21 ourselves?

22 Q. 2013 or 2014.

23 A. We didn't purchase anything from
24 anybody for our skills lab.



1 Q. Something that ACE provided on its own,
2 created on its own.

3 A. Uh-huh. I don't know what this is.
4 This looks like it might be simulated bowel and
5 stomach.

6 Q. Did ACE have a simulated bowel and
7 stomach?

8 A. Yes. Not stomach. We had a simulated
9 bowel. I've never seen this before. It looks
10 like it might be --

11 MR. DAVIS: Could you refer to what page
12 you're looking at when you say you have it or
13 don't have it?

14 THE WITNESS: 00249.

15 MR. DAVIS: Yeah.

16 THE WITNESS: It says one hand and two
17 hands on either side, so I assume it is some
18 kind of exercise where you'd practice one and
19 two-handed tying, but I can't picture how it
20 would be used.

21 BY MR. ROCHE:

22 Q. I'm just -- did ACE have something
23 similar to what's identified?

24 A. I don't know.



1 Q. On 2429, in 2013 and 2014, at its
2 skills lab?

3 A. I don't know exactly what that is used
4 for, so I can't really comment on that.

5 Q. Okay.

6 A. I don't know. On 002430, I'm still not
7 sure what that is either.

8 Q. How about the next picture?

9 A. I mean, anything I say about that would
10 just be a guess. It looks like there might be a
11 hole in something they might have to sew up.

12 Q. I'm not asking you, Mr. Bump, what the
13 items are; just simply if these items were
14 available to students who took the ACE skills
15 lab in 2013 and 2014?

16 A. These specific items, no.

17 Q. Okay. How about the next one?

18 A. I have no idea what that is. So the
19 answer would be no. 002433, we didn't have a
20 vaginal cuff. We had a vaginal cuff in one of
21 our simulators, so I would say yes on this.

22 Q. All right. But no?

23 A. Not this specific one.

24 Q. But your answer is no on 2432?



1 A. I looks like an alien from outer space.

2 Q. How about 2434?

3 A. I don't know what that is.

4 Q. So the answer would be no?

5 A. No.

6 Q. 2435?

7 A. 2435 is -- it seems to be like the item
8 I was telling you about before for the
9 laparoscopic exercise. We have that
10 laparoscopic exercise, not this specific one.

11 Q. How about 2436. Well, that's simply a
12 receipt.

13 A. Did you want me to comment?

14 Q. No. Let's move on. 2437. How about
15 that?

16 A. We had something similar to this, yes.

17 Q. 2438?

18 A. No.

19 MR. DAVIS: Do you know what it is?

20 THE WITNESS: No.

21 BY MR. ROCHE:

22 Q. 2439?

23 A. These are simulated uteruses. We did
24 have that.



1 Q. 2440?

2 A. This looks like a laparoscopic
3 simulator, and we had one, not from this
4 company, one of our own creation.

5 Q. 2441, you did not have mannequins?

6 A. No. No mannequins.

7 Q. Right. Okay.

8 A. Nothing that resembled the facial
9 features of a human or limbs or anything like
10 that.

11 Q. Simply an organ simulator?

12 A. And the container for that.

13 Q. And the container. Okay.

14 What was the container made out of?

15 A. Wood.

16 Q. Wood.

17 And what was the organ simulator? You
18 had various?

19 A. We had various organs. We have a
20 uterus. We have an abdominal aorta. We have a
21 bowel for bowel resection. And we had a
22 laparoscopic simulator where you look at the
23 monitor and you're working over here like this.
24 And we had a microscopic simulator where it



1 simulates looking in an operative microscope to
2 do something.

3 Q. Did you have any other simulators in
4 2013 and 2014?

5 A. No. That's it.

6 Q. How about 2443?

7 A. These are draping materials. We don't
8 have anything like that.

9 Q. 2444?

10 A. Laparoscopic instruments. We do have
11 those.

12 Q. Who provided those? Did ACE provide
13 those in 2013?

14 A. They were provided by a company.

15 Q. Or 2014?

16 A. I'm sorry. They were provided by a
17 laparoscopic company.

18 Q. Did students have to purchase those
19 instruments or did ACE provide them?

20 A. No. They were donated.

21 Q. So the instruments were included as
22 part of the ACE surgical assistant program?

23 A. Correct.

24 Q. 2445.



1 A. Laparoscopic equipment again.

2 Q. ACE did have that?

3 A. Not everything that's in here, no. We
4 had some of it.

5 Q. How about 2447?

6 A. The same.

7 Q. ACE -- did ACE have this equipment?

8 A. Not this specific equipment, no. We
9 had laparoscopic equipment, though.

10 Q. 2448, what appears to be a machine?

11 A. It is an anesthesia machine.

12 Q. Okay. Thank you.

13 A. I would not hesitate to say it is just
14 there for looks because they're not putting
15 these mannequins to sleep. They may be putting
16 their -- I mean, their students to sleep.

17 Q. Did ACE have anesthesia equipment in
18 its lab?

19 A. No.

20 Q. 2449, do you know what that instrument
21 is?

22 A. It is a microscope. Are you
23 specifically looking at this thing? It looks
24 like a microscope. See it has got the eyepieces



1 and everything or there is something behind
2 that.

3 Q. The main piece of equipment in this
4 picture?

5 A. Yeah. That's an operative microscope.
6 Mobile.

7 Q. Was that instrument or machine, I
8 guess, part of ACE's skills labs in 2013, 2014?

9 A. See, no. The whole purpose of this lab
10 you'd be able to set it up for your surgeons to
11 use. If we had something like that, it would be
12 so that we can learn to use it.

13 Q. This is arguably a surgical tech job
14 description?

15 A. Setting it up for the surgeon, not
16 using it themselves.

17 Q. 2450, did ACE have this instrument in
18 its skills lab?

19 A. No. Can I just stipulate that they
20 have a lot of things that we don't have?

21 Q. Yes.

22 2452?

23 A. I guess not.

24 Suture materials. Yes, we have suture



1 materials.

2 Q. 2454?

3 A. This is a small bowel and large bowel
4 and gallbladder and stomach. The purpose of
5 this simulator would just be to familiarize
6 somebody with the anatomy. There is nothing in
7 here that you could operate on.

8 Q. So the intestines are the middle of
9 this, and then what's above it in the pink, is
10 that the stomach?

11 A. This?

12 Q. Yes.

13 A. This is small bowel, this is the large
14 bowel. All of that is large bowel. This would
15 be the stomach.

16 Q. What's the green thing?

17 A. That's the gallbladder.

18 Q. Gallbladder?

19 A. That would make this the liver right
20 here. Ours don't look as nice. Our simulators
21 don't look fancy like that. They're built more
22 for function and with dissection planes and
23 things like that to be able to accomplish what
24 you have to do in real life surgery as -- this



1 is basically esthetics.

2 Q. Let's go back to the discussions with
3 ACE and COD in 2014.

4 (Whereupon, Bump Deposition
5 Exhibit No. 22 was marked for
6 identification.)

7 BY MR. ROCHE:

8 Q. I will show you what's been marked as
9 Exhibit 22 to your deposition. Do you recall
10 reviewing this email on or about February 21st,
11 2014?

12 A. Yes.

13 Q. Okay. At this point in time, is it
14 your recollection that a non-disclosure
15 agreement had not been exchanged between the
16 parties?

17 A. It went right along with the written
18 contract which was being reviewed in their legal
19 department.

20 Q. A non-disclosure agreement had been
21 sent to the College of DuPage prior to February
22 21st, 2014?

23 A. Well, Keith was asking for it here. So
24 I can only imagine that that came some time



1 after this.

2 Q. The non-disclosure came after this
3 email?

4 A. Apparently so.

5 Q. Now, to the best of your recollection,
6 Mr. Bump, prior to this email, prior to February
7 21st.

8 A. Uh-huh.

9 Q. Had anyone from ACE communicated to the
10 College of DuPage that the curriculum program
11 catalog, master syllabi was composed of ACE's
12 confidential information?

13 A. I believe I already answered that
14 before. I don't believe that was communicated.

15 (Whereupon, Bump Deposition

16 Exhibit No. 23 was marked for

17 identification.)

18 BY MR. ROCHE:

19 Q. I will show you what's been marked as
20 Exhibit 23. This is an email thread between you
21 and your brother, Keith. My question simply is:
22 Do you recall any discussions with the College
23 of DuPage about entering into any sort of
24 licensing agreement with the college?



1 A. No. The only agreement we considered
2 entering into was the consortium.

3 Q. Okay. This, you know, your email in
4 this exhibit appears to be in response to Keith
5 Bump's email that was previously marked as
6 Exhibit 22. And in your email, you state, "hi,
7 Keith. Maybe it was a while back and I wasn't
8 focused enough on that part of the discussion."

9 Were you under the impression,
10 Mr. Bump, that you would be teaching the skills
11 lab with the -- under the ACE COD partnership?

12 MR. DAVIS: Objection. Asked and
13 answered.

14 BY MR. ROCHE:

15 Q. You can answer.

16 A. Am I?

17 MR. DAVIS: Yeah. Go ahead answer it.

18 THE WITNESS: Okay. So at some point
19 when we first started talking about it, it was
20 me teaching the students. At some point College
21 of DuPage said, well, what would be the
22 difference in the price if Kathy were teaching
23 the students instead, and that's where we came
24 up with another price besides the one we're



1 looking at in this agreement.

2 BY MR. ROCHE:

3 Q. As of February 21st?

4 A. Honestly, I was a little miffed about
5 it because they were asking for a lot of free
6 stuff. For instance, now I've got to do this
7 teaching of Kathy to do this, and hence, my
8 question to Keith, well, how much are we going
9 to charge for all of that. And he talked me
10 down from the cliff, you know.

11 Q. What other free stuff was the college
12 asking for aside from free training?

13 A. That's the only thing I can recall.
14 There was a big process that I envisioned in my
15 mind what it would take Kathy to get to the
16 point where I'd be satisfied that she could
17 teach the course the way I do. And once she did
18 take the lab, I said, well, maybe we can cut
19 down on that a little bit and it will be fine.

20 Q. Okay.

21 A. Can I call for a break?

22 Q. Of course.

23 (Whereupon, a short break was
24 taken.)



(Whereupon, Bump Deposition
Exhibit No. 24 was marked for
identification.)

BY MR. ROCHE:

Q. Okay. Mr. Bump, I show you what's been
marked as Exhibit 24 to your deposition. Again,
this exhibit is another email thread in which
you are involved in some e-mails were sent to
you, others you responded to.

I wanted to actually direct your
attention to the second page of this, ACE0433,
and it is an email from Kyle to you. The first
email on the top of this, 0433. And take a
minute to read it, but my question relates to
the last sentence in this email in which
Mr. Black states, "we need to figure this out
quickly, in the event the college calls and
wants to move the contract forward."

Do you recall receiving this email?

A. It seems familiar.

Q. Do you have any reason -- as you sit
here now, do you have any understanding as to
why Mr. Black would tell you that the college
that everyone that ACE needs to figure these



1 issues out quickly in the event the college
2 calls and wants to move the contract forward?

3 A. I don't know. The only thing I can say
4 is that he's referring to the actual physical
5 contract, not the verbal contract that was in
6 effect at the time. He is not our employee. He
7 can use any language he wants.

8 Q. I thought you testified earlier that
9 the -- well, you testified earlier that the
10 contract was accepted by the College of DuPage
11 on December 9th, 2013?

12 A. Correct.

13 Q. In Mrs. Solt or Dr. Solt's email to you
14 and others in which she represented that the
15 college is ready to move forward?

16 A. Right. I don't know if Kyle was privy
17 to any of that or not.

18 Q. So when was this verbal contract agreed
19 to?

20 A. That's the date that she mentioned.

21 Q. Did Ms. Solt communicate to you or ACE,
22 anyone at ACE verbally on December 9th that the
23 College of DuPage had accepted the terms of
24 ACE's offer?



1 A. No. My statement about a verbal
2 contract is we have the terms of a contract in
3 place. Now let's move forward in response to
4 that, and everybody did, including them,
5 including us.

6 Q. What were the terms of the verbal
7 contract?

8 A. The terms of the verbal contract is
9 what was written at the time with the regular
10 contract that we had on the table for them.

11 Q. The contract that was transmitted to
12 the College of DuPage in November of 2013?

13 A. So it would be the same as if there was
14 a contract on the table here. I hand it to you.
15 You say this is going to go through the legal
16 department, but let's move forward. Going
17 through the legal department as they expressed
18 it was just a formality.

19 Q. Who expressed to you that the legal
20 department approval process was just a
21 formality?

22 A. I believe that was Kathy.

23 Q. And did Kathy communicate that to you
24 verbally?



1 A. Yes. On the phone.

2 Q. Do you remember when this conversation
3 happened?

4 A. No. It is around that December 9th
5 time.

6 Q. Was this during the Skype conference to
7 the best of your recollection?

8 A. I think when the Skype conference had
9 occurred, we were already all under the
10 understanding that we were contractually bound.

11 Q. Okay. My question centers on
12 Ms. Cabai's statement to you to the effect that
13 obtaining approval from the legal department was
14 a mere formality.

15 A. I don't even recall specifically if she
16 used those exact words, but the tenor of what
17 she said and what I remember that was the effect
18 of the conversation.

19 Q. Do you recall who else was present, if
20 anyone, during this conversation?

21 A. Yeah. I don't recall.

22 Q. You had between Ms. Cabai and yourself?

23 A. I don't recall.

24 Q. This conversation occurred, to the best



1 of your recollection, some time in December of
2 2013?

3 A. Some time in the vicinity of that date
4 of that email.

5 Q. The December 9th email?

6 A. Uh-huh.

7 Q. From Solt.

8 A. So I'm not picking updates in my
9 memory, but I do correlate that discussion to
10 that email.

11 Q. Okay. Let's go back to Exhibit 24.
12 ACE0433, again I have a question about
13 Mr. Black's email again to you. He states,
14 "Dan, my understanding from our first
15 conversation with the College of DuPage was that
16 ACE was going to charge the college 4,400 and
17 Kathy was going to teach the lab at their
18 facility, so on and so forth.

19 Do you recall if Kyle Black or your
20 brother Keith ever communicated their
21 understanding of who is going to teach the lab
22 to you prior to February 24th, 2014?

23 A. That's the date of this email?

24 Q. Yes.



1 A. I recall, as I mentioned to you before,
2 was that when I discovered that that had been
3 discussed with them, I was upset. So they kind
4 of brought that up, even before talking to me
5 about it, and then later, I had to come on board
6 with it.

7 Q. Okay. Let's go back to ACE0432, your
8 email which is in blue in this exhibit to Kyle
9 and Keith. You state, "hi, Kyle. A deal is a
10 deal, and I'm sure we'll live up to whatever we
11 promised. "

12 Do you recall at this time the promises
13 ACE made to the College of DuPage?

14 A. Isn't this in reference to Kathy
15 teaching the lab?

16 Q. You tell me.

17 A. That seems to be the context of this
18 email. And so my comments are related to that.
19 I mean, they promised that Kathy would be
20 allowed to teach the lab, and so this is my
21 expression of well, a deal is a deal then.

22 Q. Who is they?

23 A. Kyle and Keith.

24 Q. The first paragraph, last sentence,



1 "this leads me to think they believed they
2 shouldn't have to pay the full 4,480 as part of
3 the tuition."

4 Is that amount, \$4,480 the amount of
5 the tuition that College of DuPage had agreed to
6 pay ACE?

7 A. Well, they're going to collect the
8 tuition from the students. This would have been
9 our portion of that.

10 Q. The 4,480?

11 A. Yeah.

12 Q. Your email goes on to say, "perhaps we
13 should have one price for teaching the lab
14 ourselves and another for letting them teach
15 it."

16 Were there ever discussions after
17 February 21, 2014, about one price for COD
18 teaching the lab and another price for ACE
19 teaching the lab?

20 A. I don't know that there were
21 discussions with COD.

22 MR. DAVIS: You mean February 24th,
23 2014? You said 21.

24 MR. ROCHE: Yeah. Oh.



1 MR. DAVIS: You said 21.

2 MR. ROCHE: I'm sorry. 24. Thank you.

3 THE WITNESS: I don't recall if there
4 were other discussions. My bringing this up was
5 kind of related to the issue you brought up of
6 would Kathy be able to teach all the students;
7 and if not, how would we take care of that. And
8 so if we had to teach them, maybe we would just
9 charge an extra lab fee for us having to teach
10 it rather than them.

11 BY MR. ROCHE:

12 Q. Okay. Let's go down to the last full
13 paragraph in your email here, indicates or you
14 state in this email, "once they know how to
15 teach a lab, all they need is the AST core
16 curriculum for surgical assisting, and they can
17 create their own program that is the equivalent
18 to ours. We'll need legal protection to keep
19 this from happening."

20 How was the ACE curriculum developed?

21 A. We originally had an -- and this is a
22 misstatement that I would have never made if a
23 lawyer was in the room.

24 Q. Why is it a misstatement?



1 A. Because it wouldn't have been the
2 equivalent still.

3 Q. Why?

4 A. They would have been able to produce a
5 lab just with that core curriculum that was
6 acceptable for CAAHEP accreditation, but it
7 wouldn't have been the same as ours. It
8 wouldn't have been even at the level that we
9 were training. So originally when I developed
10 the curriculum, there was no core curriculum to
11 go by. So my objective in creating a curriculum
12 was to give the student that -- those surgeon
13 level skills which aren't required by the AST
14 and surgeon level knowledge which, once again,
15 is not a mandate of the AST core curriculum.
16 Later on, we added portions of the core
17 curriculum into our curriculum, just so we could
18 get CAAHEP accredited.

19 Q. At this point in time in 2014, could
20 the College of DuPage or any other accredited
21 institution discovered the curriculum necessary
22 to obtain CAAHEP certification from a source
23 other than the ACE surgical assistant program?

24 A. It was publicly available. The



1 question is why didn't they. Why did they come
2 to us instead, if they needed us for something.

3 Q. As you sit here today, do you believe
4 that the curriculum ultimately utilized by the
5 College of DuPage is the same curriculum that
6 ACE tendered to the College of DuPage?

7 A. I don't have access to their curriculum
8 at this point.

9 Q. Are you aware, as you sit here today,
10 if the College of DuPage has produced the
11 curriculum that it utilizes for its own surgical
12 assistant program?

13 A. Could you restate that, please? You
14 might just say it the same way. I don't think I
15 picked it all up.

16 (Whereupon, the record was read
17 as requested.)

18 THE WITNESS: Are you asking is it the
19 equivalent of our program now, the one that
20 they're using?

21 MR. DAVIS: No. The question is -- the
22 question is do you -- do you believe -- do you
23 understand that COD has produced their
24 curriculum for the surgical assistant program?



1 Are you aware that COD had produced the COD
2 curriculum?

3 THE WITNESS: Yes.

4 BY MR. ROCHE:

5 Q. Have you reviewed the COD curriculum?

6 A. Only what's on their website. I'm
7 sorry. Go ahead.

8 Q. Well, have you reviewed the COD
9 curriculum that has been produced in this
10 litigation?

11 A. Only as it exists on the website.

12 Q. Okay. And the College of DuPage
13 curriculum as it exists on the website, is that
14 the same curriculum that ACE provides to its
15 students who enroll in ACE's surgical assistant
16 program?

17 A. It is hard to know because they don't
18 go into detail. And like I said, it is
19 formatted differently from ours. So content, it
20 is hard to see if the content is the same. And
21 the format is definitely rearranged, like we
22 were talking about before, so it could get
23 through state approval.

24 MR. ROCHE: Okay. Can we go off the



1 record?

2 (Whereupon, a discussion was had
3 off the record.)

4 BY MR. ROCHE:

5 Q. Is ACE's curriculum taken from AST's
6 curriculum?

7 A. AST's curriculum was added to our
8 curriculum and there were some places where they
9 were the same, but I had to add some to what we
10 were currently doing in order to get accredited
11 by the AST or the CAAHEP. So it is the AST core
12 curriculum plus a lot.

13 Q. Is -- well, in 2013, 2014, was ACE's
14 curriculum what you just described, AST's
15 curriculum plus a lot?

16 A. Correct.

17 Q. Is it your view that in 2013 and 2014
18 ACE's curriculum met the CAAHEP accreditation
19 standards to be a certified CAAHEP program?

20 A. Yes.

21 Q. How did you develop the ACE curriculum?

22 A. I thought I --

23 Q. The initial. How did you initially
24 develop the ACE program?



1 MR. DAVIS: I think he's already
2 testified to that; but if you can answer it
3 quickly.

4 THE WITNESS: Number one, I had been
5 through a curriculum with the apprenticeship
6 program that I was teaching.

7 BY MR. ROCHE:

8 Q. At NIFA?

9 A. No. Before that. With the agency that
10 I was working with. And basically, the
11 curriculum we use now is an offshoot of the NIFA
12 curriculum but with the AST core curriculum
13 combined with it.

14 And so I was seeing when I was in that
15 agency what kind of training someone needed in
16 order to be successful as a surgical assistant,
17 because we were training them in that
18 organization to go out into the Denver market
19 and be successful; otherwise, the company
20 wouldn't be successful. So I knew specifically
21 what did it take. And I developed a curriculum
22 around that and that wasn't a formal curriculum.
23 It was -- you know, but it was what people
24 needed. I then developed, started into



1 curriculum development around that whole
2 experience. And then that is what we added to
3 the AST curriculum so that we can maintain that
4 level of success in teaching, but also set the
5 students up so that they would be able to take
6 the CAAHEP approved certifying exam.

7 Q. Is the AST core curriculum available
8 online?

9 A. I don't know. They definitely sell it
10 out of their -- in hard copy. I don't know if
11 it is available online.

12 Q. Do you recall when ACE implemented
13 portions of the AST curriculum into its own
14 curriculum, do you recall how you obtained the
15 AST core curriculum?

16 A. We bought it from them in hard copy
17 form.

18 Q. Approximately -- of the core curriculum
19 ACE's core curriculum in 2013 and 2014,
20 approximately how much of that curriculum was
21 the AST core curriculum?

22 A. That was the same curriculum we were
23 using when we were CAAHEP accredited. There was
24 nothing in that caused us to be withdrawn from



1 the -- from CAAHEP that had anything to do with
2 our program. There was no hits on it. There
3 was one hit on our program, and that was also
4 the same hit on everybody's program at the time.
5 They were basically doing a pilot program where
6 we had to insist that all graduates of our
7 program, 100 percent, had to take the CSFA exam.
8 Not necessarily pass it but take it. And we
9 were unable to do that. Nobody was able to do
10 that except people that had on campus training,
11 so that they could just sit their people down
12 and make them all take the CSFA exam. As a
13 distance learning program, we couldn't do that.

14 Q. Okay. My question -- let me ask it a
15 different way. In 2013 and 2014, the curriculum
16 that ACE provided its students was the master
17 syllabi; is that right?

18 A. Yes.

19 Q. Okay. Interchangeable, syllabi,
20 curriculum, is that a -- is there any problems
21 with interchanging those words?

22 A. It is not the same. The core
23 curriculum is provided by the AST that outlines
24 what they want to be in a CAAHEP accredited



1 program. And the master curriculum was written
2 based on that, as well as what we had already
3 had in place.

4 Q. Okay. In 2013 and 2014, of ACE's
5 curriculum which is the syllabi, how much of
6 that curriculum was developed by ACE?

7 A. All. Part of it based on the AST core
8 curriculum.

9 Q. How much of the curriculum, ACE
10 curriculum was based on the AST core curriculum?

11 A. I would guess maybe around 40, 50
12 percent.

13 Q. Okay.

14 (Whereupon, Bump Deposition
15 Exhibit No. 25 was marked for
16 identification.)

17 BY MR. ROCHE:

18 Q. I will show you what's been marked as
19 Exhibit 25 to your deposition, Mr. Bump.

20 This is an email thread between you and
21 Keith and Kyle Black. Again the same date,
22 February 24th, 2014, at least the most recent
23 e-mails in this thread are dated on that date.

24 My question here is if you could look



1 at the third email, which is at the bottom of
2 the first page, ACE 0477, it is an email from
3 you. I'm not exactly sure who it was directed
4 to, but in this email, you state, in the first
5 paragraph, middle of it, "her experience
6 training doesn't make it automatic. We may want
7 to address the possibility of failure in the
8 contract."

9 My question to you is: What did you
10 mean by that statement, if you recall?

11 A. I believe this is referring to when she
12 would take the lab, if she failed the lab. Then
13 we -- in other words, I wasn't taking it as a
14 guarantee that just because Kathy wanted to
15 teach the program, that she would actually be
16 able to. Okay. So I didn't want them to think
17 that no matter what her performance was at the
18 lab, that she was going to be the one teaching
19 it because I didn't know her as well as they
20 did.

21 Q. But you state in this sentence that I
22 just read that we may want to address the
23 possibility of failure in the contract.

24 Was that a term failure if Ms. Cabai



1 failed qualification criteria, was that
2 something that you wanted to add in this
3 contract between ACE and --

4 A. This was a discussion between Keith and
5 I, and we never really added that into the
6 contract anyway. And it never became
7 contractual, this part of what we were talking
8 about.

9 Q. Okay.

10 A. Believe me, I would have brought it up
11 later if it turned out to be a problem.

12 (Whereupon, Bump Deposition
13 Exhibit No. 26 was marked for
14 identification.)

15 BY MR. ROCHE:

16 Q. I will show you what has been marked as
17 Exhibit 26 to your deposition. It is a one-page
18 document Bates numbered ACE0017. You were
19 copied on this email thread or an email. It is
20 an email from Kyle Black to Kathy Cabai. The
21 second paragraph provides, "Keith and I will be
22 bringing you copies of the ACE required
23 textbooks with us to the meeting on the 20th.
24 In addition, we will be bringing an ACE



1 non-disclosure noncompete agreement for you to
2 sign prior to attending the lab. "

3 Did you have any discussions with Keith
4 and Kyle about executing a non-disclosure,
5 noncompete agreement with the College of DuPage
6 on or around this time?

7 A. I don't recall the discussions, but I
8 remember the -- I don't recall the specific
9 discussions, but I remember that this was an
10 issue that either I raised or somebody else did.
11 I think I might have. And but, once again, we
12 already felt we had a contract. We were
13 proceeding on that basis and we never did -- I
14 mean, we gave them to them, but once again, they
15 just got lost in the legal department.

16 Q. Okay. But --

17 A. And so we decided to continue on based
18 upon our current understandings.

19 Q. Was this the first time, to the best of
20 your recollection, Mr. Bump, that either you or
21 ACE had asked the college to enter into a
22 non-disclosure noncompete agreement?

23 A. No, I believe it had been brought up
24 before and the legal department was looking over



1 all that stuff.

2 Q. Do you know, as you sit here today,
3 whether or not --

4 A. I don't believe there was a non-compete
5 agreement in discussion.

6 Q. As you sit here today, Mr. Bump, do you
7 know if ACE had sent a non-disclosure agreement
8 to the College of DuPage as of February 24th,
9 2014?

10 A. Pursuant to this email, I don't recall
11 specifically if they actually did follow through
12 on that or not.

13 Q. They being Keith and Kyle?

14 A. Keith and Kyle, yeah. I know that they
15 got the textbooks. So we're a little bit better
16 about getting the textbooks to them than to you.

17 (Whereupon, Bump Deposition

18 Exhibit No. 27 was marked for
19 identification.)

20 BY MR. ROCHE:

21 Q. I will show you what's been marked as
22 Exhibit 27 to your deposition. This is an email
23 thread dated March 3, 2014. I just direct your
24 attention to the first page of this email,



1 ACE0641. In the second paragraph, you state,
2 "next, my recommendation is that we charge
3 \$4,180." Do you see that?

4 A. Uh-huh.

5 Q. At this point in time, as of March 3,
6 2014, had ACE and the College of DuPage agreed
7 on the price for the proposed partnership?

8 A. The price was at least in question
9 relating to whether Kathy was going to be
10 teaching the labs or not.

11 Q. Had they -- had ACE and the College of
12 DuPage as of March 3, 2014 agreed on the price
13 that would be paid to ACE for the partnership?

14 A. Well, as of this time, that's not the
15 right price. So there must have been other
16 discussions related to the price that we
17 eventually settled on based on the fact that
18 Kathy was going to be teaching the labs and not
19 me.

20 Q. If you turn to the next page, ACE0642.
21 It is an email from Kathy to Kyle. And her
22 first bullet point, bullet point number one,
23 Kathy asks Kyle, "can you folks call Karen
24 and/or Tom to discuss the final amount of money



1 that COD will be charged per student with me
2 teaching the suture lab." Do you see that?

3 A. Uh-huh.

4 Q. There still was no agreement on the
5 price per student for the ACE/COD partnership;
6 is that right?

7 A. That's what I told you. The final
8 price should have been somewhat soon hereafter.

9 (Whereupon, Bump Deposition

10 Exhibit No. 28 was marked for

11 identification.)

12 BY MR. ROCHE:

13 Q. I will show you what's been marked as
14 Exhibit No. 28 to your deposition, Mr. Bump.

15 Do you recall if you ever received this
16 email? You're not on the email thread. Do you
17 recall ever receiving this email?

18 A. Not this specific email, but I remember
19 we discussed these issues.

20 Q. Okay. And do you recall learning that
21 the College of DuPage had wrote the program, the
22 surgical assisting program on a semester basis?

23 A. If that means the new format that they
24 had to go through in order to get approved by



1 the state, then yes. If it is something else,
2 then I don't know.

3 Q. Was ACE's program in 2013 and 2014
4 presented on a semester basis to its students?

5 A. No.

6 Q. Do you recall around this time,
7 Mr. Bump, becoming aware of the total credit
8 hours that the COD program would be offering its
9 students?

10 A. No.

11 Q. Do you recall Keith or Kyle telling you
12 that they intended to attend an advisory
13 committee meeting by COD in March of 2014?

14 A. Yes.

15 Q. Do you recall if Keith or Kyle ever
16 attended that advisory committee meeting?

17 A. I know that they attended a lot of
18 meetings with them. I'm trying to think because
19 I can't remember if it had to be postponed or
20 cancelled or something. I don't know. It seems
21 like there is something like that, but I don't
22 know for sure. I thought I even remembered
23 seeing an email where -- and once again this may
24 be some different meeting, but where they were



1 happy that they attended the meeting, and I'm
2 thinking that that was related to the advisory
3 committee meeting, but I'm not sure.

4 Q. Okay. Let's go back to Exhibit 6, the
5 budget items exhibit.

6 All right. The lab budget items for
7 COD, how was that document created? I don't
8 think I asked you those questions.

9 A. It was created basically on a list of
10 items we use in our labs and some of those
11 things that we use are donated items and if they
12 could get them donated to them, too, that would
13 be at no cost. But many of them are things that
14 we had to pay for.

15 Q. Was -- has ACE to the best of your
16 knowledge ever sent this document, the lab
17 budget items for COD, has it ever sent this
18 document to any other non-ACE-related entities?

19 A. No. We didn't even know that that
20 would necessarily be a requirement of our
21 consortium if they asked for it, you know, and
22 in putting together everything they needed to
23 for the lab.

24 Q. Has ACE ever submitted to a third party



1 a document similar to what's identified as
2 Exhibit 6 to anyone?

3 A. No. The other people that we would
4 have sent it to just didn't get that far.

5 Q. The two colleges that we discussed
6 hours ago?

7 A. Right.

8 Q. All right. If you could look actually
9 at the body of the email as Exhibit 6. It
10 appears to be more discussions on pricing. Do
11 you see that?

12 A. Uh-huh.

13 Q. Would you agree that at this point in
14 time, March 5th, 2014, ACE and COD were
15 negotiating the price that would be charged or
16 paid to ACE under the proposed partnership?

17 A. Right.

18 Q. And is there anywhere in this email
19 thread wherein you ask Ms. Cabai to maintain the
20 lab budget items for COD confidential?

21 A. No.

22 Q. Is there any -- does any part of this
23 email communicate to the College of DuPage that
24 the lab budget items for COD is ACE's trade



1 secret?

2 A. No.

3 Q. Did you ever after sending this notify
4 anyone at COD that ACE considered the lab budget
5 items for COD that document to be confidential
6 to ACE?

7 A. No.

8 Q. Did you ever notify anyone at COD after
9 you sent this email with the attachment that it
10 was ACE's trade secret?

11 A. No.

12 (Whereupon, Bump Deposition
13 Exhibit No. 29 was marked for
14 identification.)

15 BY MR. ROCHE:

16 Q. I will show you what's been marked as
17 Exhibit 29 to your deposition. This is a
18 document that's an email that you apparently
19 received on April 24, 2014. Do you see that?

20 A. Uh-huh.

21 Q. Do you recall reading this email that
22 was forwarded to you from Keith?

23 A. Yes.

24 Q. All right. Did you notice that in the



1 first part of the email, Ms. Cabai says, "we are
2 ready to go." Do you see that?

3 A. Yes.

4 Q. Do you recall how you interpreted that
5 sentence to mean?

6 A. That, you know, they were ready to move
7 forward in the process because the state had
8 given them the go ahead or that it was good as
9 done with the state and they really didn't need
10 the state approval for the first classes.

11 Q. Because those classes were online; is
12 that right?

13 A. I don't know the answer to that.

14 Q. Okay. At this point in time had ACE
15 and the College of DuPage reached agreement as
16 to who was going to teach the lab?

17 A. I believe so. She's talking about
18 attending the class and everything. That
19 wouldn't have been put in place at all if we
20 hadn't come to some sort of agreement if she was
21 going to teach the lab or not.

22 Q. Do you know if at this point in time a
23 price had been agreed upon between ACE and the
24 College of DuPage as to the price per student?



1 A. Well, for us, our part of it?

2 Q. Yes.

3 A. Or the total tuition?

4 Q. ACE's share of the total tuition.

5 A. On a previous email, it looked like we
6 had discussed 3,600, but the eventual settlement
7 on that was in the 32 range. So we haven't
8 completely settled on a price yet. I think it
9 was 3280 or something like that.

10 Q. Do you know, does price \$3,280, do you
11 know if it was ever memorialized in a writing?

12 A. No, I don't know. The last thing I can
13 find in the latest edition of the consortium,
14 the written consortium agreement, was I think it
15 was 3,800. It was in the threes.

16 Q. Did ACE -- or excuse me.

17 Did the College of DuPage, to your
18 recollection, ever agree upon the price per
19 student would be what was memorialized in the
20 latest edition of the consortium agreement?

21 A. That was my impression that they had
22 agreed to that.

23 Q. Okay. What was your -- and we can look
24 at -- I can pull the final consortium agreement.



1 A. Uh-huh.

2 Q. But what was your impression based upon
3 that the College of DuPage had agreed upon the
4 price?

5 A. Well, because I was kind of in the mode
6 of negotiating with Keith on this. I always
7 thought we were giving away too much in our
8 offer. But he has a way of presenting things
9 like that to me in such a way that if we don't
10 at least go to this level, it is going to harm
11 the agreement that's in place, and we like the
12 agreement that's in place so we didn't want to.

13 So to the extent that it was still an
14 agreement we could live with, he has a way of
15 convincing me that we should lower our price,
16 and he was able to get me to go down to the
17 3,280 range. And then I put it through the
18 grinder and made sure that that would still work
19 out for us.

20 Q. And do you recall the College of DuPage
21 ever agreeing to the lower price, 3,200?

22 A. I remember that Keith, in his
23 discussions with them, he came back and said
24 they were pretty happy about that. That's the



1 limit of my involvement in the accepting their
2 return offer or whatever, however you would call
3 that.

4 Q. Did you have any direct communications
5 with anyone at the College of DuPage about the
6 price per student?

7 A. No.

8 Q. Okay.

9 A. Is it all right if I take that?

10 Q. Oh. Go ahead. Yeah.

11 (Whereupon, a short break was
12 taken.)

13 (Whereupon, Bump Deposition
14 Exhibit No. 30 was marked for
15 identification.)

16 BY MR. ROCHE:

17 Q. I will show you what's been marked as
18 Exhibit 30 to your deposition. My question
19 simply is: Do you remember having a conference
20 call with any representative at COD around this
21 time period, namely, April 30th, 2014?

22 A. The only conference call I can remember
23 is the one we talked about already.

24 Q. The Skype?



1 A. Yes.

2 Q. One in December?

3 A. Uh-huh.

4 Q. You do not -- well --

5 A. Oh, wait a minute. Is this the call
6 where they said we're no longer going to be
7 doing business with you?

8 Q. No.

9 A. Okay. I don't remember this one in
10 particular then.

11 Q. How many -- how many conference calls
12 do you remember?

13 A. Just those.

14 Q. With COD representatives, just those
15 two?

16 A. Just those two. They both kind of
17 stand out.

18 Q. The Skype and the one where they said
19 they're no longer going to do business with ACE?

20 A. Right.

21 Q. Do you believe as you sit here now you
22 may have had other telephonic communications
23 with representatives of COD?

24 A. I guess it is possible. I don't recall



1 them.

2 Q. The self-study, Mr. Bump, do you recall
3 how the -- do you recall the background as to
4 how ACE came to tender its self-study to the
5 College of DuPage?

6 A. It is Kathy Cabai who asked if she
7 could use that as a template for when they
8 submit this program.

9 Q. Who did Kathy ask?

10 A. Me. As far as I know, she didn't ask
11 anybody else. She might have asked somebody
12 else and then also me.

13 Q. And then she would have asked you via
14 email, is that -- let me ask it this way.

15 Do you recall how she asked you for the
16 self-study?

17 A. No.

18 Q. Did you offer to send the College of
19 DuPage ACE's self-study before Kathy asked you
20 for the self-study?

21 A. I don't know why I would have done
22 that. We did claim that, you know, because we
23 were a CAAHEP-accredited program before, that
24 this process should be a much better process



1 because all we were missing were the
2 institutional accreditation which COD would have
3 brought. And so there shouldn't be that much
4 to -- much of any kind of walls to break through
5 to make this happen. And then that's probably
6 what instigated Kathy asking for the self-study.

7 (Whereupon, Bump Deposition

8 Exhibit No. 31 was marked for
9 identification.)

10 BY MR. ROCHE:

11 Q. I will show you what's been marked as
12 Exhibit 31 to your deposition. And we'll wrap
13 up with the questioning on this. Yeah. Let's
14 do that.

15 The first part is of my questioning is
16 your response or your -- in your email to Kathy,
17 you indicate, that you will be getting -- excuse
18 me. You state, "I will also be getting you copy
19 of our self-study." Is it your testimony today
20 that there was some sort of previous
21 communication from Kathy in writing requesting
22 ACE's self study?

23 A. As I previously said, I don't recall if
24 it is in writing or on the telephone. And it



1 might have been through somebody, too. So Kathy
2 might have communicated to Keith and then Keith
3 communicated to me.

4 Q. If it went through a channel, it would
5 have been either through Keith or Kyle?

6 A. Well, Kyle usually didn't -- Kyle
7 usually communicated with Keith, not me on this,
8 on issues like these. Keith was taking the --
9 he was taking the lead in all of this
10 communications and then brought things to me as
11 they came up.

12 Q. This email is dated May 5th, 2014.
13 Mr. Bump, do you recall when -- well, did ACE
14 ultimately send COD ACE's self-study?

15 A. Yes.

16 Q. Do you recall when ACE sent COD the
17 self-study?

18 A. Some time after May 20th.

19 Q. May 5th you mean?

20 A. No. On the email, it says I'll check,
21 but it had or maybe that was related to
22 something else. Hold on. Oh. Yeah. My staff
23 was too busy to do this for me, so I was going
24 to have to do it; but I had things to do in the



1 meantime like go to this conference in Houston.
2 So it says I'll get to it around May 20th, at
3 the very end.

4 Q. And do you recall sending or becoming
5 aware that ACE had sent the ACE self-study to
6 the College of DuPage on or around May 20th?

7 A. I would have done it myself, I think.

8 Q. Okay. Do you remember sending ACE's
9 self-study to the College of DuPage?

10 A. Yeah.

11 Q. How was the self-study transmitted to
12 the College of DuPage?

13 A. As I expressed in the email, I was
14 going to have to break it up into several things
15 to email it. I don't know if it -- I don't
16 remember if that's exactly how it turned out
17 that I did. I either mailed it or I did this.

18 Q. Do you recall if you downloaded the ACE
19 self-study on to a thumb drive and sent a thumb
20 drive to Kathy Cabai?

21 A. I'm sorry. I don't recall. I know we
22 sent it. They got it.

23 Q. But you don't know when it was sent?

24 A. Not specifically.



1 Q. Do you know if it was sent during the
2 summer of 2014?

3 A. Some time after May. May 20th.

4 Q. Could the --

5 A. I'm assuming, if I'm a man of my word,
6 that it would be close to after, after that.

7 Q. All right. Going back up to the top of
8 this email, there is two attachments, it
9 appears, the ACE/COD consortium agreement and
10 the ACE/COD non-disclosure agreement. Do you
11 see that?

12 A. Yes.

13 Q. All right. Has this May 5th, 2014
14 ACE/COD consortium agreement been produced in
15 this litigation to the best of your knowledge?

16 A. I don't know if that specific thing has
17 been produced. I know we produced the
18 consortium agreements.

19 MR. DAVIS: You mean this one that I
20 presented as Exhibit K in my exhibit?

21 MR. ROCHE: Is that the one Bates
22 stamped ACE1100 to --

23 MR. DAVIS: I don't have -- for some
24 reason, I don't have Bates stamps on this. It



1 is Exhibit K in my -- it was Exhibit K in my
2 exhibit.

3 THE WITNESS: The one that I signed.

4 MR. DAVIS: Signed by Dan Bump.

5 THE WITNESS: And what's it have for the
6 price?

7 MR. DAVIS: It is dated May 5th, 2013.
8 If you recall, it was a mistake. We talked
9 about it.

10 THE WITNESS: It should have been 14.

11 MR. DAVIS: It should have been 14.

12 THE WITNESS: It looks like 3,680 was
13 the final.

14 (Whereupon, Bump Deposition
15 Exhibit No. 32 was marked for
16 identification.)

17 THE WITNESS: I don't know where I got
18 32.

19 BY MR. ROCHE:

20 Q. I will show you what has been marked as
21 Exhibit 32 to your deposition, Mr. Bump. Is
22 this a consortium agreement to the best of your
23 recollection that was e-mailed to Kathy Cabai on
24 May 5th, 2014?



1 A. Yes.

2 Q. All right. Let me just ask some
3 questions on the non-disclosure agreement that
4 was also appended to that email.

5 A. It is not on here.

6 MR. DAVIS: I sent him a copy of all the
7 curriculums.

8 MR. ROCHE: So we has the COD's
9 curriculum.

10 MR. DAVIS: He has COD's, he has AST's,
11 he has ACE's. He has every curriculum.

12 (Whereupon, Bump Deposition
13 Exhibit No. 33 was marked for
14 identification.)

15 BY MR. ROCHE:

16 Q. Exhibit 33, this is a non-disclosure
17 agreement of ACE. Mr. Bump, is this the
18 non-disclosure agreement that was sent to Kathy
19 Cabai on May 5th, 2014?

20 A. Yes.

21 Q. Was this the first time to the best of
22 your recollection that a non-disclosure
23 agreement from ACE had been sent to the College
24 of DuPage?



1 A. My understanding is we already talked
2 about a time when the books were to be
3 delivered, that there is non-disclosure
4 agreement to be delivered as well. That seems
5 to be my first recollection. I don't know was
6 it actually delivered in real life, but that's
7 when it was proposed to be delivered.

8 Q. And that was proposed to be delivered
9 when Kyle and Keith attended the advisory
10 committee meeting in March 2014?

11 A. No. It was when Kyle was to deliver
12 the books. I don't believe we were at that.
13 And he was also supposed to deliver a
14 non-disclosure agreement and some other document
15 that we had talked about. Oh, non-compete.

16 Q. Do you know if Kyle delivered in March
17 2014 the textbooks, the non-NDA and the
18 non-compete to COD?

19 A. I believe he did deliver the textbooks.
20 I got confirmation on that. I didn't get
21 confirmation on the other documents.

22 Q. Is the non-compete agreement that may
23 have been given to Kathy Cabai, is that the same
24 agreement as the one that is Exhibit 33, the



1 non-disclosure agreement?

2 A. In that email, it made them seem like
3 two separate documents. That was the first I
4 ever heard of a non-compete document. So that
5 was the first time it was ever brought to my
6 attention that we were even considering
7 delivering that document to them.

8 Q. Do you recall ever?

9 A. I have never seen it.

10 Q. That was going to be my question.
11 Because I don't believe a non-compete agreement
12 has been produced in this litigation.

13 A. So either they don't remember it or we
14 didn't do it.

15 Q. Okay. The non-disclosure agreement,
16 the NDA, has an agreement like this -- strike
17 that.

18 Was it ACE's custom and practice to
19 provide a non-disclosure agreement to
20 prospective partners entering into consortiums
21 in 2013 and 2014?

22 A. Well, since we never entered into a
23 consortium agreement, that was not a common
24 practice with us; however, and in fact, the



1 non-disclosure agreement was kind of a
2 recommendation by Kyle that we do that.

3 Q. Had ACE ever tendered a non-disclosure
4 agreement to any non-ACE-related entity prior to
5 2013 relating to ACE provided's confidential
6 information?

7 A. No.

8 Q. Do you know if ACE -- or excuse me.
9 Yeah. Strike that.

10 Do you know if ACE ever signed this
11 non-disclosure agreement?

12 A. No. I don't recall ever signing one.

13 Q. Do you recall if the College of DuPage
14 ever signed this non-disclosure agreement?

15 A. No. I don't believe they did.

16 Q. Do you recall reviewing this
17 non-disclosure agreement before it was sent to
18 the College of DuPage?

19 A. Yes.

20 Q. If I direct your attention to the first
21 whereas clause on the first page of this
22 agreement, Bates stamped ACE1105, it states,
23 "whereas, ACE has created curriculum and other
24 materials." And then there is a parenthetical,



1 "curriculum for the purpose of presenting the
2 ACE surgical assistant program at the college
3 which contains certain confidential and
4 proprietary information. "

5 My question is: What other materials
6 is ACE referring to in this whereas clause?

7 A. Where it says other materials?

8 Q. Yes.

9 A. Just materials related to the four
10 items that were on there before. The
11 curriculum, the self-study. I can't remember.

12 Q. Budgetary information?

13 A. Yeah. All of that.

14 Q. Is there any reference in this
15 agreement to the information and materials that
16 would be provided at the skills lab?

17 A. I don't believe so.

18 Q. Why wasn't that included?

19 A. I don't know. It could have been the
20 other materials. We were basically seeing
21 everything we had to offer as other materials
22 that might contain proprietary and confidential
23 information.

24 Q. There was some information that ACE



1 provided the College of DuPage that was not
2 confidential and proprietary to ACE; is that
3 right?

4 A. I don't know what that would be.

5 Q. The second page, paragraph 4. It
6 states that, "the obligations of paragraph 3
7 which is the restrictions on the use of
8 confidential information shall not apply,
9 however, to any information which is already in
10 the public domain at the time of disclosure."

11 Are you aware, Mr. Bump, that as of May
12 5th, 2014, ACE's curriculum had been sent to the
13 Illinois Community College Board?

14 A. Is that the board where they had to
15 send it to, to get state approval?

16 Q. Yes.

17 A. I was aware that it happened. I don't
18 know what date it was.

19 Q. Do you recall if the date you were made
20 aware that it happened was before May 5, 2014?

21 A. I believe it was.

22 Q. Is this non-disclosure agreement, was
23 this ever given to employees of ACE?

24 MR. DAVIS: It is asked and answered.



1 BY MR. ROCHE:

2 Q. As a condition of their employment?

3 A. No.

4 MR. DAVIS: Asked and answered.

5 BY MR. ROCHE:

6 Q. Has ACE ever entered into a
7 non-disclosure agreement with any non --

8 MR. DAVIS: Asked and answered.

9 BY MR. ROCHE:

10 Q. -- non-ACE-related entity?

11 MR. DAVIS: Asked and answered. Go
12 ahead.

13 THE WITNESS: No.

14 MR. ROCHE: All right. I think we're
15 done for today.

16 (Whereupon, further proceedings
17 were adjourned to 4/5/17 to the
18 time of 10:00 a.m.)



1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF IROQUOIS)

4 I, GINA CALLAHAN, a notary public within and
5 for the County of Iroquois and State of
6 Illinois, do hereby certify that heretofore,
7 to-wit, on the 4th day of April, 2017,
8 personally appeared before me, at 180 North
9 Stetson Avenue, Chicago, Illinois, DANIEL BUMP,
10 in a cause now pending and undetermined in the
11 Circuit Court of Cook County, Illinois, wherein
12 AMERICAN CENTER FOR EXCELLENCE IN SURGICAL
13 ASSISTING INC. is the Plaintiff, and COMMUNITY
14 COLLEGE DISTRICT 502, COLLEGE OF DUPAGE, DR.
15 THOMAS CAMERON, DR. KAREN M. SOLT, and DR. KATHY
16 CABAI are the Defendants.

17 I further certify that the said witness was
18 first duly sworn to testify the truth, the whole
19 truth and nothing but the truth in the cause
20 aforesaid; that the testimony then given by said
21 witness was reported stenographically by me in
22 the presence of the said witness, and afterwards
23 reduced to typewriting by Computer-Aided
24 Transcription, and the foregoing is a true and



1 correct transcript of the testimony so given by
2 said witness as aforesaid.

3 I further certify that the signature to the
4 foregoing deposition was waived by counsel for
5 the respective parties.

6 I further certify that the taking of this
7 deposition was pursuant to Notice, and that
8 there were present at the deposition the
9 attorneys hereinbefore mentioned.

10 I further certify that I am not counsel for
11 nor in any way related to the parties to this
12 suit, nor am I in any way interested in the
13 outcome thereof.

14 IN TESTIMONY WHEREOF: I have hereunto set my
15 hand and affixed my notarial seal this 17th day
16 of April, 2017.

17
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21 NOTARY PUBLIC, IROQUOIS COUNTY, ILLINOIS
22
23
24



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